



## **REQUEST FOR PROPOSAL**

Construction Manager/General Contractor Services (CMGC)

**R16- T108 NS**

Date issued: October 4, 2016

# **ACADEMY BOULEVARD OVER COTTONWOOD CREEK BRIDGE CONSTRUCTION AND TRAIL CONNECTION**

**THE CITY OF COLORADO SPRINGS  
and  
PIKES PEAK RURAL TRANSPORTATION AUTHORITY (PPRTA)**

**The City of Colorado Springs requests Fixed Unit Price proposals, as detailed in this Request for Proposal (RFP), for CMGC services for Academy Boulevard over Cottonwood Creek Bridge Rehabilitation or Replacement and Trail Connection**

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## SECTION I – PROPOSAL INFORMATION

### 1.0 PROPOSAL INFORMATION

Section I provides general information to potential Offerors, such as proposal submission instructions and other similar administrative elements. This RFP is available on the Rocky Mountain E-Purchasing System ([www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com)). All addenda or amendments shall be issued through the Rocky Mountain E-Purchasing System and may not be available through any other source.

This RFP is a two-phase procurement that includes a Statement of Interest/Proposal, a short listing of firms by a Selection Panel, and an in-person oral interview. At the interview, Offerors will be required to submit a CMGC Management Price Proposal. Only short listed Offerors will be allowed to submit a CMGC Management Price Proposal.

Contractors interested in submitting Proposal packages to the City are requested to submit one package that is inclusive of pre-construction CMGC services, with the option of construction if the City accepts construction GMP proposals. Selection will be on a best value basis in accordance with the evaluation criteria set forth in Section III, Evaluation Factors.

The City reserves the right to reject any or all proposals. Proposals that do not meet the Minimum Proposal Requirements listed in Section II will be rejected as non-responsive.

The selected Offeror will be contracted for design services and is expected to be contracted for construction services for this project. The selected Contractor is not guaranteed to receive a Notice to Proceed to perform construction work if services are terminated at the completion of the preconstruction phase due to lack of construction funding or failure to reach a GMP.

If the City and the selected Offeror fail to reach a GMP and the City chooses to advertise this project for bids, the selected Contractor will not be permitted to submit a bid.

### 1.1 RFP SCHEDULE OF EVENTS

The upcoming schedule of events is as follows:

<b><u>Event</u></b>	<b><u>Date</u></b>
Issue Request for Proposal	October 04, 2016
Pre-Proposal Conference	October 18, 2016 3:00 PM MST

We will hold a pre-proposal conference at the City of Colorado Springs City Administration Building, 30 S Nevada Ave., **Conference Room 401 Large**, Colorado Springs, CO 80903. This meeting is not mandatory. However all Offerors are encouraged to attend. Photo identification is required for all visitors to this building.

Cut Off Date for Questions                      October 28, 2016 10:00 AM

Questions about the RFP must be emailed in writing and directed to Nicole Spindler, at the following email address: [nspindler@springsgov.com](mailto:nspindler@springsgov.com). A written response to any inquiry may be provided in the form of an Amendment to the solicitation. See 1.7 Amendments. Questions must be received no later than Date.

**The only acceptable method of submitting questions is by email to the Contracting Specialist. Faxes or physical mail delivery are not acceptable.**

Proposal Due Date	3:00 PM MST November 4, 2016
Interviews (If required)	November 2016
Award of Contract	December 2016
Notice to Proceed	December 2016/January 2017

## 1.2 SUBMISSION OF PROPOSAL

Proposals are to be submitted to:  
Nicole Spindler  
Senior Contracting Specialist  
30 S. Nevada Avenue, Suite 201  
Colorado Springs, CO 80903

\*\*\*\*\***NO LATE OFFERS WILL BE ACCEPTED**\*\*\*\*\*

**Date/Time:** Proposals shall be received by or before 3:00 PM MST on November 4, 2016

### **Identification of Proposal:**

Proposals shall be submitted in an envelope(s) or container(s) with the solicitation number, date for submission of offer and the Offeror's name clearly marked on the outside of the envelope(s) or container(s).

**RFP No. and Title:** R16-T108 NS CMGC Academy Blvd Cottonwood Creek  
**Due Date:** 3:00 PM MST November 4, 2016  
**Company:**

Any offer that is submitted without being properly marked may be opened for identification prior to the deadline for receipt of proposals and then resealed.

### **1.3 NUMBER OF COPIES**

Offerors shall submit **six (6)** hardcopies of the proposal documents and **one (1)** unbound original. Offerors shall also submit one electronic copy on CD. Upon submission, all proposal documents shall become and remain the property of the City of Colorado Springs.

### **1.4 SPECIAL TERMS**

Please note the following definitions of terms as used herein:

The term “City” means the City of Colorado Springs.

The term “Contractor” or “Consultant” means the Offeror whose offer is accepted and is awarded the contract to provide the products or services specified in the RFP.

The term “Offer” means the proposal.

The term “Offeror” means the person, firm, or corporation that submits a formal proposal or offer and that may or may not be successful in being awarded the contract.

The term “Project” refers to CMGC Services for Academy Boulevard over Cottonwood Creek Bridge Rehabilitation or Replacement and Trail Connection.

The term “Request for Proposal” or “RFP” means this solicitation of a formal, negotiable proposal/offer. Any offer that is accepted will be the offer that is deemed by the City of Colorado Springs to be most advantageous in terms of the criteria designated in the RFP.

### **1.5 RFP OBJECTIVE**

The objective of this RFP is to provide sufficient information to enable qualified Offerors to submit written proposals to the City of Colorado Springs. The RFP is not a contractual offer or commitment to purchase products or services. The Offeror may present options and variables to the scope while still meeting the minimum requirements of this solicitation. Innovative proposals/solutions are encouraged and considered in the selection and/or award.

All information included in proposals must be legible. Any and all corrections and or erasures must be initialed by Offeror. Each proposal shall be accompanied by a cover letter signed by an authorized representative of the Offeror. The contents of the proposal submitted by the successful Offeror may become part of any contract awarded as a result of this solicitation.

## **1.6 CONFIDENTIAL OR PROPRIETARY INFORMATION**

If an Offeror believes that parts of an offer are confidential, then the Offeror must so specify. The Offeror must include in bold letters the term “CONFIDENTIAL” on that part of the offer which the Offeror believes to be confidential. The Offeror must submit in writing specific detailed reasons, including any relevant legal authority, stating why the Offeror believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. The City of Colorado Springs will be the sole judge as to whether a claim is acceptable. Decisions regarding the confidentiality of information will be made when requests are made to make the information public. All offers and parts of offers, which are not marked as confidential, will automatically be considered public information after the contract is awarded. The successful offer may be considered public information even though parts are marked confidential.

## **1.7 AMENDMENTS**

Amendments to this RFP may be issued at any time prior to the time set for receipt of proposals. Offerors are required to acknowledge receipt of any amendments issued to this RFP by returning a signed copy of each amendment issued. Signed copies of each amendment must be received on or before the time set for receipt of offers.

The City of Colorado Springs will post all amendments on the Rocky Mountain E-Purchasing System ([www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com)). It is the Offeror's responsibility to check the website for posted amendments or contact the Contracts Specialist listed to confirm the number of amendments which have been issued.

## **1.8 WITHDRAWAL OR MODIFICATION OF OFFERS**

Any Offeror may modify or withdraw an offer in writing at any time prior to the deadline for submission of an offer.

## **1.9 ACCEPTANCE**

Any offer received and not withdrawn shall be considered an offer, which may be accepted by the City of Colorado Springs based on initial submission without discussions or negotiations.

By submitting an offer in response to this solicitation, the Offeror agrees that any offer it submits may be accepted by the City of Colorado Springs at any time within 90 calendar days from the date of submission deadline.

The City of Colorado Springs reserves the right (a) to reject any or all offers,(b) to waive informalities and minor irregularities in offers received, and/or (c) to accept any portion of an offer if deemed in the best interest of the City of Colorado Springs. Failure of the Offeror to provide in its offer any information requested in the RFP may result in rejection of the offer for non-responsiveness.

#### **1.10 PROPOSAL PREPARATION COST**

The cost of proposal preparation is not a reimbursable cost. Proposal preparation shall be at the Offeror's sole expense and is the Offeror's total and sole responsibility.

#### **1.11 AWARD**

This is not a SEALED BID OR LOW BID PROCESS. The City of Colorado Springs intends to make an award using the evaluation criteria listed in this RFP to determine the best value, considering all factors and criteria in the proposals submitted. Best value means the expected outcome of an acquisition that, in the City's estimation, provides the greatest overall benefit in response to the requirements detailed in the RFP. The City of Colorado Springs reserves the right to reject any or all offers and to not make an award.

#### **1.12 PERFORMANCE PERIOD**

The performance period for the project detailed in this RFP will be established as follows.

- a. 100% Plan and GMP Completion Date – December 2017
- b. Construction Completion Date – 365 days from the issuance of notice to proceed.

#### **1.13 DEBRIEFING**

Offerors not selected may request a debriefing on the selection process as well as discussion of the strengths and weaknesses of their proposal upon receipt of notification that their offer was not selected.

A debriefing may be scheduled by contacting the Contracts Specialist listed above. The Contracts Specialist must receive a written request for debriefing no later than ten (10) calendar days after issuance of a notification that the Offeror's offer was not selected.

## **1.14 SUBSTANTIVE PROPOSALS**

By responding to this RFP, the Offeror certifies (a) that Offeror's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) that Offeror has not directly or indirectly induced or solicited any other offerors to put in a false or sham proposal; (c) that Offeror has not solicited or induced any other person, firm, or corporation to refrain or abstain from proposing an offer or proposal; (d) that Offeror has not sought by collusion to obtain for themselves any advantage over any other offerors or over the City of Colorado Springs; and (e) that Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City's Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City's Procurement Rules and Regulations.

## **1.15 OFFEROR'S QUALIFICATIONS**

Each Offeror must complete Exhibit 6 – Qualification Statement.

No contract will be awarded to any Offeror who is in arrears to the City, upon any debt or contract, or who is in default, in any capacity, upon any obligation to the City or is deemed to be irresponsible or unreliable by the City based on past performance.

## **1.16 NON-COLORADO ENTITIES**

If Offeror is a foreign entity, Offeror shall comply with C.R.S. section 7-90-801, "Authority to transact business or conduct activities required," and section 7-90-802, "Consequences of transacting business or conducting activities without authority."

Before or at the time that the contract is awarded to an entity organized or operating outside the State of Colorado, such entity shall obtain authorization to do business in the State of Colorado, designate a place of business herein, and appoint an agent for service of process.

Such entity must furnish the City of Colorado Springs with a certificate from the Secretary of the State of Colorado to the effect that a certificate of authority to do business in the State of Colorado has been issued by that office and is still valid. The entity shall also provide the a certified copy of the designation of place of business and appointment of agent for service of process from the Colorado Secretary of State, or a letter from the Colorado Secretary of State that such designation of place of business and agent for service of process has been made.

## **1.17 PROCUREMENT RULES AND REGULATIONS**



All projects advertised by the City of Colorado Springs are solicited in accordance with the City's Procurement Rules and Regulations. The City's Procurement Rules and Regulations can be reviewed and/or downloaded from the City website [www.coloradosprings.gov](http://www.coloradosprings.gov). The Contracts Specialist may also provide a softcopy of the Rules and Regulations upon request. Any discrepancies regarding conflicting statements, decisions, irregularities, clauses, or specifications will be rectified utilizing the City's Procurement Rules and Regulations, when applicable. It is the Offeror's responsibility to advise the Contracts Specialist listed in this RFP of any perceived discrepancies prior to the date and time the offer is due.

#### **1.18 FAIR TREATMENT OF OFFERORS**

The City Procurement Services Division shall be responsible for ensuring the procurement of products, commodities, and services are in a manner that affords all responsible businesses a fair and equal opportunity to compete. If an Offeror believes that a procurement is not conducted in a fair and equitable manner, the Offeror is encouraged to inform the City Procurement Services Manager as soon as possible.

#### **1.19 ORDER OF PRECEDENCE**

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order:

- (a) Sections I-IV of this Solicitation
- (b) Special Construction Terms and Conditions
- (c) General Construction Terms and Conditions
- (d) Exhibits
- (e) Plans
  - 1. Detailed Plans
  - 2. Standard DrawingsCalculated dimensions will govern over scaled dimensions.
- (f) Special Specifications
- (g) Standard Specifications

#### **1.20 SALES TAX**

The successful Offeror, if awarded a contract, shall apply to the Colorado Department of Revenue for a tax-exempt certificate for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable and should be included in all proposals. The tax exempt project number and the exemption certificate only apply to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project.**

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. In these instances, the purchase or rental is subject to full taxation at the current taxation rate.

The Offeror and all subcontractors shall include in their Offer City of Colorado Springs Sales and Use Tax on the work covered by the offer, and all other applicable taxes.

Forms and instructions can be downloaded at <https://coloradosprings.gov/cat/government/tax-information/sales-tax>. Questions can be directed to the City Sales Tax Division at (719) 385-5903.

Our Registration Numbers are as follows:

City of Colorado Springs

Federal I.D.: 84-6000573

Federal Excise: A-138557

State Sales Tax: 98-03479

## **1.21 BOND REQUIREMENTS (FOR CONSTRUCTION PHASE)**

The Offeror is advised that the successful Offeror shall be required to furnish to the City of Colorado Springs, upon award, one copy of each: Performance Bond, Labor and Materials Payment Bond, and a Maintenance Bond in the amount of 100% of the total contract within ten (10) calendar days after notification of award of a contract. The cost of all bonds shall be included in Offeror's offer.

Bonds shall:

- a) Be for the full amount of the contract price.
- b) Guarantee the Contractor's faithful performance of the work under the contract, and the prompt and full payment for all labor and materials involved therein.
- c) Guarantee protection to the City of Colorado Springs against liens of any kind.
- d) Be, when a surety bond is furnished, from a surety company operating lawfully in the State of Colorado and be accompanied with an acceptable "Power-of-Attorney" form attached to each bond copy.
- e) Be issued from a surety company that is acceptable to the City of Colorado Springs.
- f) Be submitted using the forms in the Exhibit section of this

solicitation.

## **1.22 INTERPRETATION OF QUANTITIES IN PROPOSAL FORM**

Except as otherwise provided in this RFP, the quantities appearing in the proposal form are estimates prepared for the comparison of proposals.

After award, payment to the Contractor will be made in accordance with the following procedures:

- (a) Measurement required. When the Contract requires measurement of work performed or material furnished, payment will be made for actual quantities measured and accepted.
- (b) Measurement Not Required. When the Contract does not require quantities of work performed or materials furnished to be measured, payment will be made for the quantities appearing in the Contract.

The estimated quantities of work to be performed and materials to be furnished may be increased, decreased or omitted.

## **1.23 INTERPRETATION OF PLANS AND SPECIFICATIONS**

Any change to proposal forms, plans, or specifications prior to the opening of proposals will be issued by the City in the form of an Amendment. Certain individuals may be named in the RFP that have authority to provide information, clarification or interpretation to Offerors prior to opening of proposals. Information obtained from persons other than those named individuals is invalid and shall not be used for proposal purposes.

## **1.24 COMBINATION OR CONDITIONAL PROPOSALS**

If an RFP is issued for projects in combination and separately, the Offeror may submit proposals either on the combination or on separate units of the combination. The City reserves the right to make awards on combination or separate proposals to the advantage of the City. Combination proposals will be considered, only when specified.

## **1.25 ANTI-COLLUSION AFFIDAVIT**

The Offeror by signing their proposal submitted to the City is certifying that the Offeror has not participated in any collusion or taken any action in restraint of free competitive bidding. This statement may also be in the form of an affidavit provided by the City and signed by the Offeror. The original of the signed anti-collusion affidavit, if separately required and provided with the RFP, shall be

submitted with the proposal. The proposal will be rejected if it does not contain the completed anti-collusion affidavit.

#### **1.26 MATERIAL GUARANTY**

The successful Offeror may be required to furnish a complete statement of the origin, composition, and manufacture of materials used in the construction of the work together with samples, which will be tested for conformance with Contract requirements.

#### **1.27 CONTRACT AWARD**

The signature of offeror indicates that within ten (10) from acceptance of its offer, it will execute a Contract with the City of Colorado Springs and if indicated in this solicitation, furnish a Project Specific Certificate of Insurance naming the City of Colorado Springs and PPRTA as Additional Insureds. Signature of Offeror constitutes agreement to furnish Performance, Labor, and Materials Payment Maintenance Bonds and any other documents required by the Specifications or Contract Documents.

After completion of the initial four phases, (purchase order award) it will be the City's intent to negotiate a final CMGC contract with the selected GC that incorporates all required CDOT/Federal Clauses, DBE, and Davis Bacon Wage Rates for the actual construction phase.

## SECTION II – PROPOSAL CONTENT

### 2.0 PROPOSAL CONTENT

Respondent must comply with the following items, **A through I**. The City retains the right to waive any minor irregularity or requirement should it be judged to be in the best interest of the City. (Please note that the primary focus of this evaluation will be the firm(s)' Capabilities).

- A. Deliver **six (6)** hard copies, **one (1)** unbound original, along with **one (1)** electronic copies (PDF file on a CD) of the Proposal to the City of Colorado Springs Contracts Specialist, Nicole Spindler, 30 S. Nevada Avenue, Suite 201, Colorado Springs, CO 80903.
- B. Submittals shall be formatted and tabbed in the exact form and alphanumeric sequence of the Evaluation Form B-1 from Exhibit 7 – Evaluation Score Sheet. Additional information, if provided, shall appear at the end of the submittal under its own tab(s).
  - 1. All submittals shall be easily readable font and size.
  - 2. Cover or Introductory Letter (1-page limit - 8-1/2 x 11 paper)
  - 3. Proposal Section (30-page limit, single sided, 11 point Calibri font, 8-1/2 x 11 paper, up to 14 of the 30 pages can be on 11 x 17 paper)
  - 4. The Commendation Section for awards or letters of recommendations from past clients (5 page limit – 8-1/2 x 11 paper)
  - 5. Appendix Section (no page limit but see G.)
- C. Submittals shall be evaluated in accordance with criteria as indicated in **Section 3.1 Evaluation Criteria for Proposal** and ranked on the corresponding evaluation form in **Exhibit 7**.
- D. Responses to all items shall be complete.
- E. All references shall be current and relevant.
- F. The Proposal section may include supplemental materials for risk assessments, cost models examples, processes, and additional photos, exhibits, or schedules.
- G. An appendix section shall be included in the proposal. This section shall include Proposal Certification, Exceptions, Minimum Insurance, Team Resumes – not to exceed 5 pages, and Qualification Statement.
- H. Appendix section, tabs, covers, and tables of content pages DO NOT count against the page count. Binding of Proposals is up to the Offeror.
- I. Separate, sealed CMGC Management Price Percentage shall be provided with the Proposal.

### 2.1 Project Management Team

A. Composition and Commitment of the Project Management Team

1. Provide a description of the composition of your Project Management Team. If your team is a joint venture or association, indicate specific responsibilities of each member and firm of the team. Provide, Identify and discuss the qualifications of the Key Personnel members of the team. Include the following for each member of the Offeror's team:
  - i. Provide job descriptions, responsibilities, and authority for each team member.
  - ii. Provide a list of concurrent projects and responsibilities the key personnel will have during the course of Academy over Cottonwood Creek Bridge and Trail Project Team member's current home office location.
  - iii. Qualifications and Past Construction Experience relevant to this project, in addition to length of time performing those job duties
  - iv. Unique knowledge of team members related to the project.
  - v. Length of time with the firm for each key team member and in length of time for overall experience pertinent to the project.
  - vi. Experience on similar projects as a team.
  - vii. Provide resumes and two current references for the Key Personnel in an appendix to the Proposal. References will be considered current if the party's name, current position/title, and position/title held at the time for which the recommendation is being sought are provided; telephone numbers must be current as of proposal due date.
2. Your Team should consist of, at a minimum:
  - i. Project Manager (PM)
    - o This person services as overall PM for the CMGC services and construction services, and will be the main point of communication to the project team.
    - o This PM is expected to be involved in the CMGC Services and help with continuity in the construction phases.
    - o This person will be the main point of communication to the Project Team and the City PM.
  - ii. Cost Estimator
    - o This person is an experienced construction cost estimator on similar projects.
    - o Their experience should include experience assessing risk, estimating major construction project costs, market knowledge, and discussion of assumptions.
  - iii. Scheduling Expert
    - o This person is experienced in construction scheduling of similar projects.
  - iv. Structures Expert
    - o This person is experienced in bridge and retaining wall construction and rehabilitation of the types likely on this project.

And up to 4 additional persons the Offeror considers as key to the success of the project. Examples include subject matter experts in technical operations, specialty subcontractors, scheduling, safety, public information or others.

**B. Team Building and Collaboration**

Provide a narrative describing how the Offeror's team will contribute to the building a professional and collaborative project team.

**C. Organizational Chart**

Provide a separate graphic showing organizational structure chart, complete with working titles for the project management team in both design and construction.

**D. Succession Planning**

Narrative describing succession planning for team stability and planning for any member of the project team that leaves during design or construction.

**2.1.2 Contractor Capability**

Provide a list of previous experience relevant to the general scope of work for this project. For each listed project or experience please include owner and architect/engineer references and contact information. The City may at its discretion contact references and/or conduct independent performance analysis on projects on which the firm has worked.

All references submitted shall be current for relevant projects. References will be considered current if the party's name, current position/title, and position/title held at the time for which the recommendation is being sought are provided; telephone numbers must be current as of proposal due date.

**A. Project Background and Success**

Provide three or more relevant projects/programs that demonstrate the Offeror's ability to be successful on this project. For each listed project or experience please include owner and architect/engineer references and contract information. The City may, at its discretion, contact references and/or conduct independent performance analysis on projects on which the firm has worked.

Provide, at a minimum, the following:

- i. The project/contract name
- ii. Description of services provided
- iii. Overall construction cost of project, including initial contract value and change orders, including reasons for change orders
- iv. Overall Schedule Performance, as applicable, including initial schedule and reasons for change orders.
- v. Organizational structure of service delivery under the contract (include the owner's organization as it interfaced with the respondent's contract).
- vi. Key assigned in-house staff (name and title).
- vii. Subcontracts (service) used in the performance of the contract.

- viii. Reference(s) for Owner and Design Consultants.
- ix. Coordination with stakeholders, if any.
- x. Continuing services, if any.

All references submitted shall be current for relevant projects. References will be considered current if the party's name, current position/title, and position/title held at the time for which the recommendation is being sought are provided; telephone numbers must be current as of proposal due date.

**B. Prior Experience with the City Specifications and Standards**

Provide a narrative of prior experience with the City Practices and Specifications

**C. Safety Record and Performance:**

Provide a narrative of the Offeror's safety programs, processes, and initiatives that demonstrate a record of safety performance. Provide the following information for each entity involved, covering the last 4 years (2012-2016).

- xi. Experience Modification Rates (EMR);
- i. OSHA Reportable Incident Statistics;

### **2.1.3 Strategic Project Approach**

**A. Preconstruction Approach**

- i. Provide a strategic project approach summary as it applies to the preconstruction phase of the project. Please discuss your general approach to a CMGC project, including the project's goals and the Offeror's approach to maximizing and attaining the project goals from Preconstruction phase through the Construction phase.
- ii. Discuss how you would work in the preconstruction phase to develop major features and your approach to the constructability of the project.
- iii. Discuss how you would support the City during the preconstruction phase in contributing to design concepts and providing estimates to confirm funding levels of base project elements and potential additional elements (such as additional river work, accesses, and adjacent features).
- iv. Discuss how you would support the City in identifying specific construction elements and/or corridor segments for accelerated early construction packages.
- v. Discuss your approach to involving key subject matter experts in the preconstruction phase.
- vi. Discuss how you would support the City in stakeholder involvement.
- vii. Discuss your approach to in the design effort to help to reduce errors and omissions, improve constructability, and reduce the cost of construction. Describe processes that will be used to support the design development and decision-making process in the preconstruction phase of the project. How will these proposed processes help the City decide which suggestions to use and how



will the cost savings, risk mitigation, and value added be tracked and documented?

**B. Construction Approach**

- i. Discuss your approach to the transition from the preconstruction phase to the construction phase of the project. How will you coordinate this transition and implement the agreements executed during the preconstruction phase?
- ii. Discuss your approach to quality control and managing quality during construction.
- iii. Propose possible conceptual construction approaches and sequences that optimize value to the project with a realistic view of known constraints. Discuss factors that would affect schedule such as outside constraints, construction phasing, seasonal work, materials, equipment and labor availability, etc.
- iv. Discuss the potential project challenges. Describe any project challenges that are anticipated by your company and how you plan to mitigate the risk of these challenges.
- v. Discuss your approach to safety during the construction phases that will keep the traveling public and workers safe.
- vi. Discuss your approach to fulfilling the commitments being made during the ongoing environmental process. This includes protections and accommodations of the aquatic creek environment, wildlife, and existing trail.
- vii. Describe your approach for a subcontractor selection plan that describes your business process for the below-mentioned items.
- viii. Discuss what mechanisms you will use to soliciting reliable bids from subcontractors, lock in item cost for GMP and in the event additional work is needed during construction. Bringing market competitive pricing into the project; Utilizing the benefit of positive previous working relationships with subcontractors. Discuss how you will enforce procedures, schedules, quality, safety, and protocols that ensure compliance with project plans and specifications;
  - i. Describe what processes will you use to develop effective communications between the CMGC Team and the sub-contractors;
  - ii. Discuss your approach to outreach to contractors or suppliers, including small and disadvantaged businesses that may have an interest in working on the project.
  - iii. Discuss the elements and features of work you anticipate subcontracting out, or describe the process you will use to identify such elements and features.
  - iv. Discuss how you will handle communication needs with stakeholder groups throughout the construction of this project. Discuss your approach to minimizing construction noise and vibration, specifically adjacent to private residences.

**2.1.4. Approach to Risk, Schedule, and Price**

As each Opinion of Probable Construction Cost (OPCC) or Guaranteed Maximum Price (GMP) is developed, risk, schedule, and major assumptions need to be evaluated and discussed. How the contractor communicates these items to the City is critical for a successful CMGC project.

In this section, Offerors need to evaluate two major items of work. A major item of work is an item that will have high costs, high schedule impacts, and high or unresolved risks to the project. Offerors should apply their approaches specifically to each major item.

The following two Major Items of work will be major factors in the success of this project.

A. Roadway and Bridge construction/reconstruction including:

1. Phasing, MOT, temporary and permanent safety and mitigation features,
2. Material handling and balancing.

B. Restoration of creek channel, floodplain, and features adjacent to roadway including:

1. Phasing of creek work,
2. Water quality,
3. Dewatering and groundwater control for the entirety of the construction.

For Each Major Item, include discussion on the following:

1. Cost Model Approach:

- a. Show how your cost model would look and work;
- b. Briefly discuss your cost assumptions you would include for each major item of work.
- c. Briefly discuss how market conditions would affect the cost of this work.
- d. Communicate the assumptions, risk, opportunities, innovation, market conditions, limited or significant market competition, subcontracting opportunities, means and methods, and potential challenges in the current design or feature that could impact schedule and cost.
- e. Submit pricing that includes innovative cost savings, opportunities, value to the project, and minimized risk.

2. Schedule Approach:

- a. Discuss what design aspects you would recommend to the designers that would reduce schedule or add benefit to the project.
- b. Discuss what construction elements or features your company will use to reduce schedule or provide added benefit to the project.
- c. Address how you will collaboratively integrate and optimize the construction schedule with the design schedule.

- d. Explain how your scheduling will incorporate resource management and how it will be flexible and adaptable in allowing for phased construction and multiple GMPs if required.

### 3. Risk Approach

- a. Discuss your risk management process that will be used to identify, cost, probability of that risk and what recommendations you would make to reduce or eliminate the risk.
- b. Discuss how you will address risk responsibility and developing the Risk Register with an approach to shared risk and owner risk pools.
- c. What formalized risk management process will be used to identify, price, and reduce or eliminate risk.
- d. Risk mitigations that you could apply to decrease the cost and increase projected cost savings.
- e. Opportunities to improve cost, quality, and schedule.
- f. Input in assigning risk responsibility and developing the Risk Register with an approach to shared and owner risk pools.
- g. Analysis of the risk to cost and schedule for each major feature.
- h. Identify if a risk is an owner's risk, contractor's risk, or shared risk.
- i. Use the table below to create a Risk Mitigation Matrix to identify potential key risks that affect project costs and schedule. Explain risk mitigation with potential schedule and cost impacts. Discuss your process for risk allocation.

Identified Risk or Opportunities	Risk Mitigation Plan	Potential Cost Impacts (+or -)	Impacts to Project Schedule (+ or -)	Risk Allocation (Owner, Shared, or Contractor)
----------------------------------	----------------------	--------------------------------	--------------------------------------	--

### 2.1.5. **Project Innovations and Resources**

#### A. Innovations

In conjunction with your team's project approach, your team may have some innovative ideas that may or may not meet the requirements of the RFP that could increase the likelihood for success. The Selection Team will consider how well your innovative ideas help balance the project goals. Any innovations proposed need to be practical and implementable.

Please discuss these further as follows:

1. Describe specific technical or production innovations related to design or construction that may further improve reaching project goals.
2. Describe impacts of the innovation(s) on time, cost, and quality.
3. Describe the methods your team will utilize for development, tracking, and proposal of innovations to the Project Team.

#### B. Unique Resources and Capabilities

Describe additional unique resources, Means and Methods, and capabilities that your company will bring to the project and how these unique resources and capabilities will be beneficial in achieving the project goals.

### 2.1.6. Public Involvement (Construction Phase)

This work consists of supporting the City PM in providing public information throughout the construction of the project. The Public Involvement Manager (PIM) will coordinate and develop a Public Information Plan with the City PM and the City Communication Manager. Final approval of approach and collateral will be given by the City PM. Discuss your firm's approach to public involvement on large projects.

## 2.2 ORAL INTERVIEWS (IF NEEDED)

### A. Short List

From the submittals received, a short list of qualified respondents shall be identified using the scoring indicated on the enclosed CMGC Proposal Evaluation Form B-1 in Exhibit 7. Firms failing to meet the minimum required qualifications will not receive further consideration.

### B. Oral Interview

Interview times and location will be arranged by the City and firms will be notified in advance.

## 2.3 SEALED CMGC MANAGEMENT PRICE PERCENTAGE

Sealed CMGC Management Price Percentage Proposals will be submitted in a separate sealed envelope, in the proposal package.

Only one copy of Form B-2 is required. The CMGC Management Price Percentage will remain sealed until after the qualitative scoring and will then be opened after the Selection Panel Meetings.

The CMGC Management Price Percentage Proposal will then be converted into points in accordance with **Section 3.3**. CMGC Management Price Percentage Proposals shall be submitted on Form B-2 provided in **Exhibit 7** without modification.

The CMGC Management Price Percentage proposals shall include a summary of components used in establishing the CMGC Management Price Percentage.

The CMGC Management Price Percentage is a percentage which will be applied to all Construction Phase GMP Proposals based on the Fixed Limit of Construction Cost. The CMGC Management Price Percentage shall include all profit, general and administrative ("G & A") costs, and home office overhead as defined in **Form B-3 in Exhibit 7**. Summaries must include the line items detailed in Form B-3.

### CMGC Management Price Percentage Proposal Format:

- A. Submittals shall be formatted and tabbed in the exact form and alphanumeric sequence to include the following:

1. CMGC Management Price Percentage Proposal Forms B-2 (1 Page – **Exhibit 7** without modification to the Form) completed in its entirety.
2. CMGC Management Price Percentage Summary Information (2 page limit – summary page)  
Paper must be 8 1/2 X 11 paper, and all submittals shall use a minimum font size of 11 Calibri.

**The Owner has the right to reject any submitted CMGC Management Price Percentage Proposal deemed too low.**

#### **2.4 EXCEPTIONS**

Please note that all Offerors must complete and return with their proposal, Exhibit 3, Exceptions Form. If no exceptions are taken, the form shall be completed stating such.

#### **2.5 INSURANCE REQUIREMENTS**

Please note that all Offerors must complete and return with their proposal, Exhibit 4, Minimum Insurance Requirements

## SECTION III – EVALUATION FACTORS

### 3.0 EVALUATION AND AWARD

Section III provides information regarding evaluation criteria and scoring. It also includes information regarding proposal selection and award of the resultant contract.

### 3.1 EVALUATION CRITERIA FOR PROPOSALS (80 Points Possible)

It is very important that submittals be clear, concise, and in the recommended format so they may be evaluated in an objective manner by the City's selection team. See Section II- Item(s) 2.0 & 2.1.

### 3.2 EVALUATION CRITERIA FOR CMGC MANAGEMENT PRICE PERCENTAGE PROPOSAL - (20 Points Possible)

Offerors shall state their proposal CMGC Management Price Percentage, identified as a percentage and carried out to four decimal points (e.g. 0.0000%), which will be applied to all construction packages. The CMGC Management Price Percentage shall not change regardless of the final, negotiated amount of the GMP for Early Construction and Construction Phases.

The CMGC Management Price Percentage shall include all profit, general and administrative ("G & A") costs, regional and home office overhead, and non-reimbursable costs identified in Appendix C. The CMGC Management Price Percentage breakdown shall show the breakdown of all components used in establishing the percentage. The intent of the CMGC Management Price Percentage is to define the cost and level of effort for the CMGC to deliver the project within the GMP. The CMGC Management Price Percentage shall exclude all Offeror's costs for risk related to performance of the construction work.

The CMGC Management Price Percentage score will be determined by comparing each firm's sealed CMGC Management Price Percentage with the lowest CMGC Management Price Percentage being equivalent to the maximum score of 20 points. See Section II – Item(s) 2.3.

To score each price percentage, the following formula will be used as shown in the following example: Assume the average CMGC Price Percentage was 10%, the points would be calculated as below.

$$\text{FIRM A : } 10\% / 10\% \times 20 \text{ points} = 20 \text{ points}$$

$$\text{FIRIM B : } 10\% / 13\% \times 20 \text{ points} = 15.38 \text{ points}$$

$$\text{FIRIM C : } 10\% / 16\% \times 20 \text{ points} = 12.5 \text{ points}$$

The resulting score will be added to the individual Offeror's CMGC Management Price Percentage Proposal Form B-2 that will be included in the sealed submittal.

### **3.3 SELECTION COMMITTEE**

A selection committee will review all proposals. Through this process, the City will determine which proposals are acceptable or unacceptable. The City will notify, in writing, the Offerors whose proposals are deemed to be unacceptable. Those Offerors offering proposals deemed to be acceptable by the City will be evaluated and scored by the selection committee. This scoring will determine which Offerors are considered to be in the competitive range and may be the basis for an award decision without further steps.

If the selection committee elects not to award based upon evaluation scoring, it may engage in a forced elimination process. To inform this process, it may require oral presentations or interviews with the Offerors considered to be in the competitive range. If oral presentations or interviews are conducted, they may also be scored, or they may simply be considered as information supporting the forced elimination process. The selection committee may request revisions to the proposal from each of the Offerors at the conclusion of the interviews. The intent of the forced elimination process is to reach consensus. The decision will be based on all relevant factors, and based upon perception of best value. The final decision may or may not exactly reflect scoring ranking.

The City also reserves the right to request best and final offers from all Offerors at any point in the proposal evaluation process.

### **3.4 AWARD OF CONTRACT**

It is anticipated that there will be negotiations or discussions with Offerors. However, the City reserves the right to award without negotiations or discussions. The City also reserves the right to award a contract not necessarily or merely to the Offeror with the most advantageous price. The City intends to award to the Offeror that demonstrates the best value to the City and the most substantiated ability to fulfill the requirements contained in this Request for Proposal. A contract prepared by the City will be finalized and/or negotiated with the successful Offeror. In the event a contract cannot be negotiated with the top ranked Offeror, the City may enter into negotiations with the second highest ranked Offeror, or the City may decide to call for new proposals. Immediately after the notice of award, the successful Offeror will begin planning in conjunction with the City of Colorado Springs staff (to be designated by the City) to ensure fulfillment of all its obligations. The successful Offeror may be expected to attend regular meetings as required by the City to assist in the preparation for startup.



## **SECTION IV – SPECIAL CONTRACT TERMS AND CONDITIONS**

### **4.0 SPECIAL CONTRACT TERMS AND CONDITIONS/SPECIAL SOLICITATION PROVISIONS**

In addition to the special contract terms and conditions listed below, the City's sample contract, see Exhibit 2, contains contract terms and conditions.

#### **CITY/PPRTA JOINT CONTRACT TERMS AND CONDITIONS**

PPRTA Funding Special Provision: Joint Contracts - City of Colorado Springs and the Pikes Peak Rural Transportation Authority (PPRTA).

This contract is a joint contract between the Contractor, the City of Colorado Springs, and the Pikes Peak Rural Transportation Authority. The Parties therefore agree to the following:

1. This PPRTA Funding Special Provision shall supersede any contrary provision of this Contract.
2. The Contractor acknowledges and understands that this contract is funded in whole or in part by the PPRTA and administered by the City. Both the City and the PPRTA are Parties to this Contract.
3. The Contractor acknowledges and understands that all payments under this contract shall be made to the Contractor by the PPRTA. PPRTA funding obligations shall be paid by PPRTA warrants. In the event there is Joint City / PPRTA funding, then payment to the Contractor by the PPRTA shall consist of Warrants from the City and Warrants from the PPRTA. The Contractor agrees to accept all payments made or proffered by the PPRTA under this Contract.
4. All bonds under this Contract shall include the City of Colorado Springs and the PPRTA as Obligees.
5. All insurance policies provided by the Contractor pursuant to this contract except Workers Compensation Insurance shall name both the City of Colorado Springs and the PPRTA as additional insureds. All insurance policies provided by any sub-Contractor for any work pursuant to contracts with the Contractor, except Workers Compensation Insurance, shall also name both the City of Colorado Springs and the PPRTA as additional insureds.
6. Law: This contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Home Rule City and the Resolutions, Rules and Regulations of the PPRTA. Court venue

and jurisdiction shall exclusively be in the Colorado District Court for El Paso County, Colorado. The Parties agree that this contract shall be deemed to have been made in, and the place of performance is deemed to be in, the City of Colorado Springs, El Paso County, and State of Colorado. The Contractor shall insure that the Contractor and the Contractor's employees, agents, officers and subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or hereafter amended.

7. Appropriation and availability of funds: In accord with the Colorado Constitution, Article X, Section 20, and the City Charter, performance of the City's obligations under this Contract is expressly subject to appropriation of funds by the City Council for this contract and the availability of those appropriated funds for expenditure. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under this Contract, or appropriated funds may not be expended due to Constitutional or City Charter spending limitations, then the City and the PPRTA may terminate this Agreement without compensation to the Contractor. Performance of the PPRTA's obligations under this Contract are expressly subject to appropriation of funds by the PPRTA and the availability of those funds for the payment of obligations incurred under this contract. Further, in the event that PPRTA funds are not appropriated in whole or in part sufficient for performance of the PPRTA's obligations under this Contract, or appropriated funds may not be expended legal limitations on non-availability, then the City and the PPRTA may terminate this Contract without compensation to the Contractor.
8. Indemnification: The Contractor agrees that the Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents, and the PPRTA, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractor's obligations or actions under this Contract.
9. Warranties: All warranties provided by Contractor under or pursuant to this Contract to the City shall also apply to the PPRTA.
10. Final Payment: Final payment under this Contract shall be made in accord with the terms of this Contract, except that final payment shall be made by the PPRTA, and the making and acceptance of final payment shall constitute a waiver of all claims by the Contractor against the City and the PPRTA.
11. Termination or default of Contract: In all contract provisions giving the City the right to terminate, for convenience or otherwise, or giving the City

rights in the event of default by the Contractor, the term City shall include the PPRTA.

#### 12. Change Orders or Work Order:

- a) The Contractor agrees and acknowledges as a part of this Contract that no change order or work order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under this Contract to exceed the amount appropriated for this Contract, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision of this Contract.
- b) The Contractor further agrees and acknowledges as a part of this Contract that no change order or other form or order or directive which requires additional compensable work to be performed under this Contract shall be issued by the City unless City or PPRTA funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this Contract, the Contractor shall not be entitled to any additional compensation for any additional compensable work performed under this Contract, including but not limited to emergency work, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the Contractor was given a written change order describing the additional compensable work to be performed, and setting forth the amount of compensation to be paid, which change order was signed by the authorized City representative. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.
- c) Any budget changes or significant changes to the design, requirements or scope of the Contract shall require the approval of the City and the PPRTA.

## **SECTION V – EXHIBITS**

### **5.0 EXHIBITS**

Exhibit 1	Proposal Certification
Exhibit 2	Sample Contract
Exhibit 3	Exceptions
Exhibit 4	Minimum Insurance Requirements
Exhibit 5	Scope of Work
Exhibit 6	Qualification Statement
Exhibit 7	Evaluation Scoresheet
Exhibit 8	Performance Bond
Exhibit 9	Labor and Material Payment Bond
Exhibit 10	Maintenance Bond
Exhibit 11	Notification of Utilities

**EXHIBIT 1      PROPOSAL CERTIFICATION**

Check or Mark the space after each number to indicate compliance.

1. \_\_\_\_\_ Address of Offeror's Principal Place of Business:

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Does Offeror have an established office or facility in Colorado Springs?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, indicate address below if different than Principal Place of Business.

Colorado Springs Facility - Year established \_\_\_\_\_

Address of Colorado Springs Facility:

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Percent of Work to be Performed from Principal Place of Business? \_\_\_\_\_

Percent of Work to be Performed from Colorado Springs Facility? \_\_\_\_\_

2. \_\_\_\_\_ Indicate your ability to provide a certificate of insurance evidencing the required coverage types and limits specified in Minimum Insurance Requirements Exhibit. (The certificate of insurance must reflect the City of Colorado Springs as an Additional Insured, as applicable.)

Indicate your ability to comply with the following requirements:

The City shall be added as an Additional Insured to all liability policies:

Yes \_\_\_\_\_ No \_\_\_\_\_

Your property and liability insurance company is licensed to do business in Colorado:

Yes \_\_\_\_\_ No \_\_\_\_\_

Provide the name of your property and liability insurance company here:

Name: \_\_\_\_\_

Your property and liability insurance company has an AM best rating of not less than B+ and/or VII:

Yes \_\_\_\_\_ No \_\_\_\_\_

Worker's Compensation Insurance is carried for all employees and covers work done in Colorado.

Yes \_\_\_\_\_ No \_\_\_\_\_

3. N/A Provide one (1) copy of current financial statements (if required). Enclose financial information in a separate envelope; do not bind with the other proposal copies. If review of the information is to be restricted to the City's financial officer, it must be marked accordingly. *Note: This may be requested of short listed firms.*

4. \_\_\_\_\_ Provide the completed and signed proposal. (Proposals must be identified as specified in this RFP document). All required Exhibits are attached.

By signing below, the Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or any Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud.

Offeror has appointed \_\_\_\_\_ as the Offeror's representative and contact for all questions or clarifications in regard to this Offeror.

Telephone: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

The undersigned acknowledges and understands the terms, conditions, Specifications and all Requirements contained and/or referenced and are legally authorized by the Offeror to make the above statements or representations.

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(City, State and Zip)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Name typed/Printed)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(E-Mail Address)

**FEDERAL TAX ID #** \_\_\_\_\_

**This Company Is:** Corporation\_\_\_\_ Individual\_\_\_\_ Partnership\_\_\_\_  
LLC\_\_\_\_\_

**Offeror hereby acknowledges receipt of the following amendments, if applicable**  
Offeror agrees that it is bound by all Amendments identified herein.

AMENDMENT #1\_\_\_\_\_ DATED:\_\_\_\_\_

AMENDMENT #2\_\_\_\_\_ DATED:\_\_\_\_\_

AMENDMENT #3\_\_\_\_\_ DATED:\_\_\_\_\_

**Please Note the attached Representations and Certifications must be initialed by**  
**Offeror in the spaces provided and returned with this certification.**

## REPRESENTATIONS AND CERTIFICATIONS

### Exhibit 1 Continued

#### 1. INSURANCE REQUIREMENTS

Offeror shall comply with all insurance requirements and will submit the Insurance Certificates prior to performance start date. If limits are different from the stated amounts, Offeror shall explain variance. Certain endorsements and “additionally insured” statements may require further clarification and specific statements on a project specific basis and should have been described in the Offeror’s proposal.

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Initials for 1

#### 2. ETHICS VIOLATIONS

- a) The Offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this clause in its own operations and direct business relationships.
- b) Offeror certifies the Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City’s Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City’s Procurement Rules and Regulations
- c) When the Offeror has reasonable grounds to believe that a violation described in this clause may have occurred, the Offeror shall promptly report the possible violation to the City Contracts Specialist in writing.
- c) The Offeror must disclose with the signing of this proposal, the name of any officer, director, or agent who is also an employee of the City and any City employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the Offeror’s firm or any of its branches.
- d) In addition, the Offeror must report any conflict or apparent conflict, current or discovered during the performance of the Contract, to the City Contracts Specialist.
- e) The Offeror shall not engage in providing gifts, meals or other amenities to City employees. The right of the Offeror to proceed may be terminated by written notice issued by City Contracts Specialist if Offeror offered or gave a gratuity to an officer, official, or employee of the City and intended by the gratuity to obtain a contract or favorable treatment under a contract.
- f) The Offeror shall cooperate fully with the City or any agency investigating a possible violation on behalf of the City. If any violation is determined, the Offeror will properly compensate the City.
- g) The Offeror agrees to incorporate the substance of this clause (after substituting “Contractor” for “Offeror”) in all subcontracts under this offer.

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Initials for 2



### **3. ILLEGAL ALIENS**

If Offeror has any employees or subcontractors, Offeror shall comply with § 8-17.5-101, et seq., C.R.S. regarding Illegal Aliens – Public Contracts for Services, and this section of this Agreement. 8-17.5-102 includes, in part, that:

1. Offeror shall not:
  - a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
  - b. Enter into a contract with a subcontractor that fails to certify to Offeror that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
2. Offeror has verified or attempted to verify that Offeror does not employ any illegal aliens and, will participate in the E-Verify Program or State Department program in order to confirm eligibility of all employees who are newly hired to perform work under public contract for services.
3. Offeror will not use E-Verify Program or State Department program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.
4. If Offeror obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Provider shall:
  - a. Notify the subcontractor and the City within three days that Offeror has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - b. Terminate the subcontract with the subcontractor if within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien. However, the Offeror shall not terminate the contract with the subcontractor if during this three day period:
    - i. The subcontractor provides information which establishes that the subcontractor has not knowingly employed or contracted with an illegal alien, and
    - ii. The Offeror will not employ the illegal aliens in the performance of any City contract.
5. Offeror shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in §8-17.5-102(5), C.R.S.
6. If Offeror violates this provision, the City may terminate the contract for a breach of contract. If the Agreement is terminated, the Offeror shall be liable for actual and consequential damages.

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Initials for 3

### **4. COOPERATION WITH OTHER CONTRACTORS**

Other City activities/contracts may be in progress or start during the performance of this contract. The Offeror shall coordinate the work harmoniously with the other contractors

or City personnel, if applicable.

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Initials for 4

## **5. INTERNET USE**

Should the Offeror require access to City Internet resources in the performance of this requirement, a "Contractor's Internet Use Agreement" form must be separately signed by each individual having access to the City Network. The completed Contractor's Internet Use Agreement will be maintained with this agreement. Inappropriate use of the City Network will be grounds for immediate termination of any awarded contract.

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Initials for 5

## **6. LITIGATION**

If awarded a contract, Offeror shall notify the City within five (5) calendar days after being served with a summons, complaint, or other pleading in any matter which has been filed in any federal or state court or administrative agency. The Offeror shall deliver copies of such document(s) to the City's Procurement Services Manager. The term "litigation" includes an assignment for the benefit of creditors, and filings of bankruptcy, reorganization and/or foreclosure.

---

Initials for 6

## **7. CONTRACTOR'S REGISTRATION INFORMATION**

Offeror's firm verifies and states that they are (check all that apply):

- ☐ Large Business (i.e. do not qualify as a small business or non-profit)
- ☐ Nonprofit
- ☐ Small Business
- ☐ Minority Owned Business/Small Disadvantaged Business
- ☐ Woman Owned Business
- ☐ Veteran Owned Business

\_\_\_\_\_ Service-Disabled Veteran Owned Business

\_\_\_\_\_ HUBZone Business

Note: The City accepts self-certification for these categories in accordance with Small Business Administration (SBA) standards. The SBA size standards are found on the SBA website <https://www.sba.gov/content/am-i-small-business-concern>.

\_\_\_\_\_  
Initials for 7

## 8. CONTRACTOR PERSONNEL

- a) The Offeror shall appoint one of its key personnel as the “Authorized Representative” who shall have the power and authority to interface with the City and represent the Offeror in all administrative matters concerning this proposal and any awarded contract, including without limitation such administrative matters as correction of problems modifications, and reduction of costs.
- b) The Authorized Representative shall be the person identified in the Offeror’s proposal, unless the Offeror provides written notice to the City naming another person to serve as its Authorized Representative. Communications received by the City Contracts Specialist from the Authorized Representative shall be deemed to have been received from the Offeror.

The individual, \_\_\_\_\_ (Name)  
with position, \_\_\_\_\_ (Title)  
Can be reached at \_\_\_\_\_  
Work telephone number: \_\_\_\_\_  
Home telephone number: \_\_\_\_\_  
Cellular telephone number: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

\_\_\_\_\_  
Initials for 8

## 9. OFFEROR’S CERTIFICATION

The undersigned hereby affirms that:

- a) He/She is a duly authorized agent of the Offeror;  
b) He/She has read and agrees to the City’s standard terms and conditions attached.  
c) The offer is presented in full compliance with the collusive prohibitions of the City of Colorado Springs. The Offeror certifies that no employee of its firm has discussed, or

compared the offer with any other offeror or City employee and has not colluded with any other offeror or City employee.

d) The Offeror certifies that it has checked all of its figures, and understands that the City will not be responsible for any errors or omissions on the part of the Offeror in preparing its proposal.

e) By submitting an offer the Offeror certifies that it has complied and will comply with all requirements of local, state, and federal laws, and that no legal requirements have been or will be violated in making or accepting this solicitation.

I hereby certify that I am submitting the proposal based on my company's capabilities to provide quality products and/or services on time.

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Initials for 9

#### **10. OFFEROR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:**

1. The Offeror certifies to the best of its knowledge and belief, that (i) the Offeror and/or any of its Principals
  - a. Are ( ), Are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
  - b. Have ( ), Have not ( ), within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local) contract or subcontract; violation of Federal or state antitrust statutes relation to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property; and
  - c. Are ( ), Are not ( ) presently indicated for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in any paragraphs above.
2. The Offeror shall provide immediate written notice to the City Contracts Specialist if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reasons of changed circumstances.
3. The certification in paragraph 1. above, is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City Contracts Specialist may terminate the contract resulting from this solicitation for default. Termination for default may

result in additional charges being levied for the costs incurred by the City to initiate activities to replace the awarded Contractor.

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Initials for 10

#### **11.ACCEPTANCE OF CITY CONTRACTS SPECIALIST'S SOLE AUTHORITY FOR CHANGES**

Unless otherwise specified in the Contract, the Offeror hereby agrees that any changes to the scope of work, subsequent to the original contract signing, shall be generated in writing and an approval signature shall be obtained from the City Contracts Specialist prior to additional work performance.

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Initials for 11

Name of Company:

Federal Tax ID Number:

DUNS Number:

Principle Place of Business:

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Signature of Authorized Representative

Printed Name:

Title:

Date:

**EXHIBIT 2      SAMPLE CONTRACT****CONSTRUCTION MANAGER/GENERAL CONTRACTOR  
CONTRACT**

Contract Number:		Project Name/Title	
Vendor/Contractor			
Contact Name:		Telephone	
Address:			
Federal Tax ID #		Please check one:	<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
City Contracting Specialist	Name & Phone#	City Dept Rep	Name & Phone# & Department Name
NOT TO EXCEED Contract Amount:		City Account #	Acct Code (5)   Fund (3)   Dept (4)   Project (7)
Contract Type:	FIXED UNIT PRICE	Period of Performance:	
Contract Value Amount:		Contract Funding Amount:	

**1. INTRODUCTION**

THIS FIXED UNIT PRICE CONTRACT ("Contract") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between the Pikes Peak Rural Transportation Authority (PPRTA), the City of Colorado Springs/PPRTA, a Colorado municipal corporation and home rule city, in the County of El Paso, State of Colorado, (the "City"), and \_\_\_\_\_ (the "Contractor").

THE CITY AND THE CONTRACTOR HEREBY AGREE AS FOLLOWS:

The City has heretofore prepared the necessary Contract Documents for the following Activity: Academy Boulevard over Cottonwood Creek Bridge Construction and Trail Connection.

The Contractor did on the \_\_\_\_ day of \_\_\_\_\_, 2016 submit to the City the Contractor's written offer and proposal to do the work therein described under the terms and conditions therein set forth and furnish all materials, supplies, labor, services, transportation, tools, equipment, and parts for said work in strict conformity

with the accompanying Contract Documents, which are attached hereto and incorporated herein by this reference, including the following:

1. This Contract Document
2. Appendix A – Additional Terms and Conditions
3. Appendix B – Contractor’s Proposal,
4. Appendix C – Statement of Work.
5. Schedule A – Proposal Price Sheet
6. Schedule B – General Construction Terms and Conditions
7. Schedule C – Special Construction Terms and Conditions
8. Schedule D – General Specifications
9. Schedule E – Special Specifications
10. Exhibit 1 – Performance Bond
11. Exhibit 2 – Labor and Material Payment Bond
12. Exhibit 3 – Maintenance Bond
13. Exhibit 4 – Notification of Utilities
14. Exhibit 5 – Project Schedule

## **2. COMPENSATION/CONSIDERATION**

### **IF FIXED UNIT PRICE**

THIS FIXED UNIT PRICE CONTRACT is established at the Not to Exceed amount of \$xxxxxxx.

Subject to the terms and conditions of the Contract Documents, Contractor agrees to furnish all materials and to perform all work as set forth in its proposal and as required by the Contract Documents.

All pricing is in accordance with the fixed unit prices found in Schedule A, as proposed by the Contractor. Payment made for actual quantities as set forth in Schedule B, General Construction Terms and Conditions. At no time shall the total obligation of the City exceed the not to exceed amount of this Contract.

## **3. TERM OF CONTRACT**

Contractor will start work promptly after the Notice to Proceed and continue to work diligently until completed. The Contractor shall complete all work on an as ordered basis throughout the Contract period which is **365 Calendar Days** after the Notice-to-Proceed (“Period of Performance”) as per the specifications and drawings. The Contractor shall provide a two-year guarantee on all work performed under this Contract after the job has been completed and accepted.

[This is a phased award]

#### 4. INSURANCE

The Contractor shall provide and maintain an acceptable Certificate of Insurance Policy(s) which includes Property, Liability and Professional Errors and Omissions coverage, as listed in Minimum Insurance Requirements Checklist. The City of Colorado Springs shall be reflected as an additional insured on the Property and Liability policy(s).

Further, Contractor understands and agrees that Contractor shall have no right of coverage under any existing or future City comprehensive, self, or personal injury policies. Contractor shall provide insurance coverage for and on behalf of Contractor that will sufficiently protect Contractor, or Contractor's agents, employees, servants or other personnel, in connection with the services which are to be provided by Contractor pursuant to this Contract, including protection from claims for bodily injury, death, property damage, and lost income. Contractor shall provide worker's compensation insurance coverage for Contractor and all Contractor personnel. Contractor shall file applicable insurance certificates with the City and shall also provide additional insurance as indicated in this Contract. ***A CURRENT CERTIFICATE OF INSURANCE IS REQUIRED PRIOR TO COMMENCEMENT OF SERVICES LISTING THE CITY AS ADDITIONALLY INSURED.***

#### 5. RESPONSIBILITY OF THE CONTRACTOR

- A. The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all Scope of Work services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in services provided under this Contract to the satisfaction of the City.
- B. The City's review, approval of, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the City for any and all damages to the City caused by the Contractor's negligent performance of any of the services furnished under this Contract.
- C. The rights and remedies of the City provided for under this Contract are in addition to any other rights and remedies provided by law.
- D. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

#### 6. WORK OVERSIGHT

- A. The extent and character of the work to be done by the Contractor shall be subject to the general approval of the City's delegated Project Manager.



- B. If any of the work or services being performed does not conform with Contract requirements, the City may require the Contractor to perform the work or services again in conformity with Contract requirements, at no increase in Contract amount. When defects in work or services cannot be corrected by re-performance, the City may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the work or services performed.
- C. If the Contractor fails to promptly perform the defective work or services again or to take the necessary action to ensure future performance is in conformity with Contract requirements, the City may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such work or service or (2) terminate the Contract for breach of contract.

## **7. SUBCONTRACTORS, ASSOCIATES, AND OTHER CONTRACTORS**

- A. Any subcontractor, outside associates, or other contractors used by the Contractor in connection with Contractor's work under this Contract shall be limited to individuals or firms that are specifically identified by the Contractor in the Contractor's proposal and agreed to by the City. The Contractor shall obtain the City's Project Manager's written consent before making any substitution of these subcontractors, associates, or other contractors.
- B. The Contractor shall include a flow down clause in all of its subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall cause all of the terms and conditions of this Contract, including all of the applicable parts of the Contract Documents, to be incorporated into all subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall provide clearly that there is no privity of contract between the City and the Contractor's subcontractors, outside associates, and other contractors.

## **8. KEY PERSONNEL**

The key personnel listed in the proposal and/or below will be the individuals used in the performance of the work. If any of the listed key personnel leave employment or are otherwise not utilized in the performance of the work, approval to substitute must be obtained by the Contractor from the City's Project Manager. Any substitute shall have the same or a higher standard of qualifications that the key personnel possessed at the time of Contract award.

## **9. START AND CONTINUANCE OF WORK**

It is further agreed that the Contractor will start work promptly and continue to work diligently until this Contract is completed.

The following provisions shall apply to this Contract and shall take precedence and control in the event of conflict with any other provisions of the Contract:

## **10. APPROPRIATION OF FUNDS**

This Contract is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Contract.

## **11. CHANGES**

The Contractor and the City agree and acknowledge as a part of this Contract that no change order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for this Contract as listed above, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision of this Contract. The Contractor and the City further agree and acknowledge as a part of this Contract that no change order or other form or order or directive which requires additional compensable work to be performed under this Contract shall be issued by the City unless funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this Contract, the Contractor shall not be entitled to any additional compensation for any change which increases or decreases the Contract completion date, or for any additional compensable work performed under this Contract, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the Contractor was given a written change order

describing the change in Contract completion date or the additional compensable work to be performed, and setting forth the amount of compensation to be paid, which change order was signed by the authorized City representative. The amount of compensation to be paid, if any, shall be deemed to cover any and all additional general, extended overhead, direct, indirect or other cost or expense or profit of the Contractor whatsoever. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.

No change to this Contract shall be valid unless duly approved and issued in writing by the City of Colorado Springs Procurement Services Division. The City shall not be liable for any costs incurred by the Contractor resulting from work performed for changes not issued in writing by the City of Colorado Springs Procurement Services Division.

## **12. ASSIGNMENT**

No assignment or transfer by the Contractor of this Contract or any part thereof or of the funds to be received thereunder by the Contractor will be recognized unless such assignment has had the prior written approval of the City and the surety has been given due notice of such assignment. Such written approval by the City shall not relieve the Contractor of the obligations under the terms of this Contract. In addition to the usual recitals in assignment contracts, the following language must be included in the assignment:

It is agreed that the funds to be paid to the assignee under this assignment are subject to a prior lien for services rendered or materials supplied for the performance of the work called for in said contract in favor of all persons, firms, or corporations rendering such services or supplying such materials.

## **13. CHOICE OF LAW**

This Contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that the place of performance for this Contract is deemed to be in the City of Colorado Springs, El Paso County, State of Colorado. The Contractor shall ensure that the Contractor and the Contractor's employees, agents, officers and subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or hereafter amended.

## **14. WORKERS' COMPENSATION INSURANCE**

Contractor shall take out and maintain during the Period of Performance, Colorado Worker's Compensation Insurance for the Contractor and all employees of the

Contractor. If any service is sublet by the Contractor, the Contractor shall require the subcontractor to provide the same coverage for the subcontractor and subcontractor's employees. Workers' Compensation Insurance shall include occupational disease provisions covering any obligations of the Contractor in accord with the provisions of the Workers' Compensation Act of Colorado.

## **15. INDEMNIFICATION**

Contractor agrees that the Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractor's obligations or actions under this Contract caused by any willful or negligent error, omission or act or a failure to observe any applicable standard of care by the Contractor or any person employed by it or anyone for whose acts the Contractor is legally liable. In consideration of the award of this Contract, to the extent damages are covered by insurance, the Contractor agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Contractor for the City.

## **16. INDEPENDENT CONTRACTOR**

In the performance of the Contractor's obligations under this Contract, it is understood, acknowledged and agreed between the parties that the Contractor is at all times acting and performing as an independent contractor, and the City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Contractor's obligations under this Contract, except as otherwise stated within the Contract terms. The City shall not provide any direction to the Contractor on the work necessary to complete the project. Contractor understands that it is an independent contractor responsible for knowing how to perform all work or tasks necessary to complete project. The Contractor understands and agrees that the Contractor and the Contractor's employees, agents, servants, or other personnel are not City employees. The Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of the Contractor's employees, agents, servants or other personnel performing services or work under this Contract, whether it is of a direct or indirect nature. Further in that regard, it is expressly understood and agreed that for such purposes neither the Contractor nor the Contractor's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

## **17. APPLICABLE LAW AND LICENSES**

In the conduct of the services or work contemplated in this Contract, the Contractor shall ensure that the Contractor and all subcontractors comply with all applicable state, federal and City and local law, rules and regulations, technical standards or specifications. The Contractor shall qualify for and obtain any required licenses prior to commencement of work.

## **18. PRIOR AGREEMENTS**

This is a completely integrated Contract and contains the entire agreement between the parties. Any prior written or oral agreements or representations regarding this Contract shall be of no effect and shall not be binding on the City. This Contract may only be amended in writing, and executed by duly authorized representatives of the parties hereto.

## **19. INTELLECTUAL PROPERTY**

The Parties hereby agree, and acknowledge, that all products, items writings, designs, models, examples, or other work product of the Contractor produced pursuant to this Contract are works made for hire, and that the City owns, has, and possesses any and all ownership rights and interests to any work products of the Contractor made under this Contract, including any and all copyright, trademark, or patent rights, and that compensation to the Contractor for Agreement and acknowledgment of this intellectual property right section of this Contract is included in any compensation or price whatsoever paid to the Contractor under this Contract. It is the intent of the parties that the City shall have full ownership and control of the Contractor's work products produced pursuant to this Contract, and the Contractor specifically waives and assigns to the City all rights which Contractor may have under the 1990 Visual Artists Rights Act, federal, and state law, as now written or later amended or provided. In the event any products, items writings, designs, models, examples, or other work product produced pursuant to this Contract is deemed by a court of competent jurisdiction not to be a work for hire under federal copyright laws, this intellectual property rights provision shall act as an irrevocable assignment to the City by the Contractor of any and all copyrights, trademark rights, or patent rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, including all rights in perpetuity. Under this irrevocable assignment, the Contractor hereby assigns to the City the sole and exclusive right, title, and interest in and to the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, without further consideration, and agrees to assist the City in registering and from time to time enforcing all copyrights and other rights and protections relating to the Contractor's products, items writings, designs, models, examples, or other work product in any and all countries. It is the Contractor's specific intent to assign all right, title, and interest whatsoever in any and all copyright rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, in any media

and for any purpose, including all rights of renewal and extension, to the City. To that end, the Contractor agrees to execute and deliver all necessary documents requested by the City in connection therewith and appoints the City as Contractor's agent and attorney-in-fact to act for and in Contractor's behalf and stead to execute, register, and file any such applications, and to do all other lawfully permitted acts to further the registration, prosecution, issuance, renewals, and extensions of copyrights or other protections with the same legal force and effect as if executed by the Contractor; further, the parties expressly agree that the provisions of this intellectual property rights section shall be binding upon the parties and their heirs, legal representatives, successors, and assigns.

## **20. WAIVERS**

No waiver of default by the City of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the Contractor shall be construed, or shall operate, as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by the Contractor.

## **21. THIRD PARTIES**

It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person or entity on such Contract. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Contract, receiving services or benefits under this Contract shall be deemed to be incidental beneficiaries only.

## **22. TERMINATION**

### **A. Termination for Convenience.**

By signing this Contract, Contractor represents that it is a sophisticated business and enters into the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that the City may terminate this Contract at any time for convenience of the City, upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that the City shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that the City shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other

costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from the City. The City shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of this notice the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

B. Termination for Cause: The occurrence of any one or more of the following events ("Event of Default") will justify termination for cause:

- i. Contractor's failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.
- ii. Contractor's disregard of the laws or regulations of any public body having jurisdiction.
- iii. Contractor's disregard of the authority of Project Manager.
- iv. Contractor's violation in any material provision of the Contract Documents.
- v. Contractor's failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any all of their employees, officers, servants, members, and agents.
- vi. Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.
- vii. A custodian, receiver, trustee or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor's interest

in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.

viii. Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period of time after written notice.

If one or more of the events identified in Paragraphs i-viii above occur, City may give Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager within ten (10) days after the date of the written notice or such plan is unacceptable to the City, the City may, give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, City may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, construction equipment, and machinery at the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which City has paid Contractor but which are stored elsewhere, and finish the work as City may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event City terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor shall pay City for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph City shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the City. Neither the City nor any officer, agent or employee of the City shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid.

Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by City will not release Contractor from liability.

C. Termination Notice. Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.



D. Removal of Equipment. Except as provided above, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the City, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the City, failing which the City shall have the right to remove such equipment and supplies at the expense of the Contractor.

## **23. BOOKS OF ACCOUNT AND AUDITING**

The Contractor shall make available to the City if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The City's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. The Contractor agrees that it will keep and preserve for at least seven years all documents related to the Contract which are routinely prepared, collected or compiled by the Contractor during the performance of this Contract.

The City's Auditor and the Auditor's authorized representatives shall have the right at any time to audit all of the related documentation. The Contractor shall make all documentation available for examination at the Auditor's request at either the Auditor's or Contractor's offices, and without expense to the City.

## **24. ILLEGAL ALIENS**

Illegal Aliens - Public Contracts for Services - Compliance with Title 8, Article 17.5, Colorado Revised Statutes: The Contractor acknowledges, understands, agrees, and certifies that: In the performance of any work or the provision of any services by the Contractor under this Contract, the Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; or enter into a contract with any subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or under the subcontract to this Contract. The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract for services knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the City within three days that the Contractor has actual knowledge that the

subcontractor is employing or contracting with an illegal alien, and terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the Contract with the subcontractor if during the three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with any request by the City, federal government, or the Colorado Department of Labor and Employment made in the course of an investigation. If the Contractor violates or fails to comply with any provision of C.R.S. 8-17.5-101 et seq, the City may terminate this Contract for breach of contract. If this Contract is so terminated, the Contractor shall be liable for any actual and consequential damages to the City.

## **25. COMPLIANCE WITH IMMIGRATION AND CONTROL ACT**

Contractor certifies that Contractor has complied with the United States Immigration and Control Act of 1986. All persons employed by Contractor for performance of this Contract have completed and signed Form I-9 verifying their identities and authorization for employment.

## **26. LABOR**

The Contractor shall employ only competent and skilled workmen and foremen in the conduct of work on this Contract. The Contractor shall at all times enforce strict discipline and good order among Contractor's employees. The Project Manager shall have the authority to order the removal from the work of any person, including Contractor's or any subcontractor's employees, who refuses or neglects to observe any of the provisions of these Plans or Specifications, or who is incompetent, abusive, threatening, or disorderly in conduct and any such person shall not again be employed on the Project.

In accord with the Keep Jobs in Colorado Act, codified at sections 8-17-101, et seq., C.R.S., Colorado labor shall be employed to perform the work to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on this Project et seq.; provided however, that this paragraph shall not apply if the Project receives federal funding.

In no event shall the City be responsible for overtime pay.

## **27. GRATUITIES**

- A. This Contract may be terminated if the Mayor, the Mayor's designee, and/or the Procurement Services Manager determine, in their sole discretion, that the Contractor or any officer, employee, agent, or other representative whatsoever, of the Contractor offered or gave a gift or hospitality to a City officer, employee,

agent or Contractor for the purpose of influencing any decision to grant a City contract or to obtain favorable treatment under any City contract.

- B. The terms "hospitality" and "gift" include, but are not limited to, any payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given or offered, including but not limited to food, lodging, transportation, recreation or entertainment, token or award.
- C. Contract termination under this provision shall constitute a breach of contract by the Contractor, and the Contractor shall be liable to the City for all costs of reletting the contract or completion of the project. Further, if the Contractor is terminated under this provision, or violates this provision but is not terminated, the Contractor shall be subject to debarment under the City's Procurement Regulations. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## **28. NON-DISCRIMINATION**

- A. In accord with section 24-34-402, C.R.S., the Contractor will not discriminate against any employee or applicant for employment because of disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. But, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to take into consideration disability if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job, and the disability has a significant impact on the job. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship.
- B. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- C. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry.
- D. Contractor will cooperate with the City in using Contractor's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts or work under this Contract.

## **29. ORDER OF PRECEDENCE**

Any inconsistency in this Contract shall be resolved by giving precedence in the following order:

- A. This Contract document with its terms and conditions
- B. Specific Construction Terms and Conditions
- C. General Construction Terms and Conditions
- D. The Statement of Work
- E. Specific Specifications
- F. General Specifications
- G. Other Appendices, Attachments, Exhibits, or Schedules

## **30. HEADINGS**

The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

## **31. DISPUTES**

- A. All administrative and contractual disputes arising from or related to this Contract other than those arising under Unanticipated Circumstances provisions (in section 107.27 of Schedule B General Construction Terms and Conditions) shall be addressed in the following manner:
  - i. If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute not addressed in the Unanticipated Circumstances provisions, such Party shall promptly give the other Party written notice of said dispute.
  - ii. The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
  - iii. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
  - iv. The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators

- will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
- v. The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of Colorado.
  - vi. Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the City. For purposes of this Contract, termination for convenience shall not be deemed a dispute. The City of Colorado Springs and the Contractor agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, the City of Colorado Springs and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by the Colorado District Court for El Paso County, CO.

### **32. DELIVERY**

The City may cancel this Contract or any portion thereof if delivery is not made when and as specified, time being of the essence in this Contract. Contractor shall pay the City for any loss or damage sustained by the City because of failure to perform in accordance with this Contract.

### **33. PAYMENTS**

All invoices shall be sent to the Project Manager identified in this Contract.

The City will pay the Contractor, upon submission of proper invoices, the prices stipulated in the Contract for services rendered and accepted, less any deductions provided in this Contract within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.

All payments for Construction will be made in accordance with the Payment provisions found in Schedule B – General Construction Terms and Conditions.

Each invoice must contain at least the following information:

Contract number, issued purchase order number, invoice number, invoice date, timeframe covered by invoice, type and amount of labor and materials used for that time period, dollar amount in unit price, extended price, and total value of invoice.

### **34.INSPECTION OF SERVICES**

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the services furnished under this Contract conform to Contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any City inspection and testing required in the Contract's specifications, except for specialized inspections or tests specified to be performed solely by the City.

- A. Definition of "services", as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City during Contract performance and for as long afterwards as the Contract requires.
- C. The City has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City will perform inspections and tests in a manner that will not unduly delay the work.
- D. If the City performs inspections or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

### **35.SECURITY**

The City maintains security requirements regarding access to City buildings and other City workplaces and worksites on City property. All Contractor personnel accessing City buildings, workplaces, or worksites, may be required to produce a valid, Government issued picture identification. Contractor personnel lacking such identification may not be allowed access to such sites. No costs incurred by the Contractor due to City security requirements shall be allowable or payable under this Contract.

### **36.TIME IS OF THE ESSENCE**

In as much as the Contract concerns a needed or required service, the terms, conditions, and provisions of the Contract relating to the time of performance and completion of work are of the essence of this Contract. The Contractor shall begin work on the day specified and shall prosecute the work diligently so as to assure

completion of the work within the number of calendar days or date specified, or the date to which the time for completion may have been extended.

### 37. EMPLOYMENT OF LABOR

The Contractor shall comply with, and defend and hold the City harmless from any violation of all laws and lawful rules and regulations, both of the State of Colorado and of the United States, relating to Workmen's Compensation, unemployment compensation, Social Security, payment for overtime, and all other expenses and conditions of employment under this Contract.

### 38. SALES TAX

The Contractor must have a tax-exemption certificate from the Colorado Department of Revenue for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable. The tax exempt project number and the exemption certificate only applies to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. Such purchases and rentals are subject to full applicable taxation.

All contracts with subcontractors must include the City of Colorado Springs Sales and Use Tax on the work covered by the Contract, and other taxes as applicable.

Note: For all equipment, materials and supplies incorporated into the work purchased from vendors or suppliers not licensed to collect City Sales Tax (i.e. out of state suppliers, etc.), City Use Tax is due and payable to the City. The Contractor shall execute and deliver, and shall cause the Contractor's subcontractors to execute and deliver to the City Sales Tax Office, ST 16 forms listing all said equipment, materials and supplies and the corresponding use tax due, along with payment for said taxes. Any outstanding taxes due may be withheld from the final payment due the Contractor and may result in suspension of Contractor from bidding on City projects.

Forms and instructions can be downloaded at <https://coloradosprings.gov/cat/government/tax-information/sales-tax>. Questions can be directed to the City Sales Tax Division at (719) 385-5903.

Our Registration Numbers are as follows:  
City of Colorado Springs  
Federal I.D.: 84-6000573  
Federal Excise: A-138557

State Sales Tax: 98-03479

The Contractor's payment or exemption of State of Colorado, El Paso County and City Sales and Use Taxes shall be as specified herein.

### **39. SEVERABILITY**

If any terms, conditions, or provisions of this Contract shall be held unconstitutional, illegal, or void, such finding shall not affect any other terms, conditions, or provisions of this Contract.

### **40. LIABILITY OF CITY EMPLOYEES**

All authorized representatives of the City are acting solely as agents and representatives of the City when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of the City.

### **41. APPENDICES**

The following Appendices are made a part of this Agreement:

1. Appendix A – Additional Terms and Conditions
2. Appendix B – Contractor's Proposal,
3. Appendix C – Statement of Work.
4. Appendix D – Project Schedule
5. Appendix E – Exhibits from the RFP
  - Performance Bond (Exhibit 8 of the RFP)
  - Labor and Material Payment Bond (Exhibit 9 of the RFP)
  - Maintenance Bond (Exhibit 10 of the RFP)
  - Notification of Utilities (Exhibit 11 of the RFP)
6. Schedule A – Proposal Price Sheet
7. Schedule B – General Construction Terms and Conditions
8. Schedule C – Special Construction Terms and Conditions
9. Schedule D – General Specifications
10. Schedule E – Special Specifications
11. Schedule F – Minimum Insurance Requirements



## CONTRACT SIGNATURE PAGE

The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed.

**IN WITNESS WHEREOF**, the parties have caused these presents to be executed on the day and the year first above written.

This Contract is executed in one (1) original copy.

**THE CITY OF COLORADO SPRINGS,  
COLORADO:**

**JOHN W. SUTHERS**  
MAYOR

**SECOND PARTY:**

Corporate Name

Signature

Date

Title

**Pikes Peak Regional Transportation  
Authority (PPRTA)**

### EXHIBIT 3      EXCEPTIONS

Print the words "no exceptions"(here)\_\_\_\_\_ if there are no exceptions taken to any of the terms, conditions, or specifications of these proposal documents or contract.

If there are exceptions taken to any of the terms, conditions, or specifications of the proposal document or contract, they must be clearly stated on a separate sheet of paper attached to this sheet and returned with your proposal.

**Note:** All potential Offerors are hereby advised that exceptions taken may be considered during the evaluation phase which may affect the final scoring of proposals. Offerors stipulating that the City must use their contract or agreement may be determined non-responsive and their Proposal determined unacceptable.

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
(City, State and Zip Code)

Authorized Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Return this form with your Proposal.

**EXHIBIT 4      MINIMUM INSURANCE REQUIREMENTS****CITY OF COLORADO SPRINGS****MINIMUM INSURANCE REQUIREMENTS**

The following listed minimum insurance requirements shall be carried by all contractors and consultants unless otherwise specified in the City's solicitation package, Special Provisions, or Standard Specifications.

1.	<input checked="" type="checkbox"/>	Workers' Compensation and Employers Liability as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$100,000.
2.	<input checked="" type="checkbox"/>	Automobile Liability covering any auto (including owned, hired, and non-owned autos) with a minimum of \$1,000,000 each accident combined single limit.
3.	<input checked="" type="checkbox"/>	Commercial General Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence. Coverage shall include blanket contractual, broad form property damage, products and completed operations and contractors protective endorsements.
4.	<input type="checkbox"/>	Liquor Legal Liability Insurance: If the event producer is a business that manufactures, distributes, sells, or serves alcoholic beverages, and intends to serve or sell alcoholic beverages at an event, they must also submit a Certificate of Insurance providing proof of a liquor legal liability insurance policy or properly endorsed general liability policy. a. If this event producer hires a vendor to serve or sell alcoholic beverages, rather than providing the alcohol themselves, they must submit a Certificate of Insurance from the vendor providing proof of a liquor legal liability insurance policy or properly endorsed general liability policy. b. In either case, the minimum acceptable limit of liability per claim and aggregate is \$1,000,000. This requirement applies to the business or group which serves or sells the alcohol.
5.	<input type="checkbox"/>	Technology Errors and Omissions Liability including Network Security and Privacy Liability not less than \$3,000,000 per loss with a \$3,000,000 aggregate.

		<p>a. The policy shall provide a waiver of subrogation.</p> <p>b. The insurance shall provide coverage for liability arising from theft, dissemination and/or use of confidential information stored or transmitted in electronic form.</p> <p>c. Network Security Liability arising from the unauthorized access to, use of or tampering to gain access to your services including denial of service, unless caused by a mechanical or electrical failure</p> <p>d. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.</p>
6.		Excess Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence.
7.	x	<p>Builders Risk or Installation Floater Insurance: Contractor shall purchase and maintain property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property.</p>
8.		<p>Professional Liability Insurance covering any damages caused by an error, omission or any negligent Acts with limits of not less than \$1,000,000 per occurrence and in the aggregate. The coverage shall have an extended reporting period of 2 years following the date of substantial completion of the project for reporting of claims.</p>
9.		<p>Pollution Legal Liability Insurance for limits of not less than \$1,000,000 for sudden and accidental incidents including on-site clean-up for new conditions, third party liability for bodily injury and property damage at on-site and off-site locations, and third party clean-up for new and pre-existing conditions.</p>

Except for workers' compensation and employer's liability insurance, the **City of Colorado Springs must be named as an additional insured**. Certificates of Insurance must be submitted before commencing the work and provide 30 days' notice

prior to any cancellation, non-renewal, or material changes to policies required under the contract.

All coverage furnished by contractor is primary, and any insurance held by the City of Colorado Springs is excess and non-contributory.

The undersigned certifies and agrees to carry and maintain the insurance requirements indicated above throughout the contract Period of Performance.

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Signature) (Date)

## **1.1 SCOPE OF CMGC SERVICES FOR THIS RFP SELECTION**

The City of Colorado Springs (the City) and the Pikes Peak Regional Transportation Authority (PPRTA) are soliciting CMGC services for the Academy Blvd. over Cottonwood Creek Bridge & Trail Project (Project). The project limits are from the Academy Blvd and Brookside Dr./York Blvd intersection to approximately 500 ft. south of the bridge. The Project will incorporate the investigation of the following two options, one of which will be selected for construction.

1. The rehabilitation and widening of the existing bridge and trail construction.
2. The replacement of the existing bridge and trail construction.

Please refer to Section 1.3 for more information regarding each option.

The selected Offeror (also referred to as “Contractor” in this RFP) will provide preconstruction phase Construction Management services and is intended to be the General Contractor during the construction phase; however, the construction contract is not guaranteed.

The current draft scope of work reflects an approach based upon the known project goals and risks. One factor determining the CMGC selection is the ability of the Contractor to analyze these project goals, evaluate work elements, and formulate a proposal. This process may produce new approaches or modify the project work elements for the overall project benefit. The final scope of work for the project will be determined based on the input from various sources including Consultants, stakeholders, and the selected Contractor.

The Contractor will be a member and actively part of the design team for the project. Assignment of the responsibility of Contractor tasks during the preconstruction phase will be determined by the City Project Manager (PM) during the course of the project. Tasks include, but are not limited to:

- Partnering with the Design Consultant and the City Leadership Team, as part of the design team. As part of the design team, the Contractor will review project data to provide input on schedule, phasing, constructability, material and equipment availability, cost throughout the preconstruction phase of the project, and other associated work in the design phase.
- Review all as-built plans, current conceptual designs, and site conditions.
- Provide design and schedule validation for conceptual designs.
- Provide input on project risk areas and cost-benefit analysis of resiliency.

- Provide input on Academy Blvd. over Cottonwood Creek and Cottonwood Creek pedestrian bridge construction types and techniques.
- Provide input on excavation and temporary shoring.
- Provide input with MOT/ traffic phasing.
- Provide input on site protection during construction, i.e. BMPs, dewatering, safety.
- Provide input on methods to armor or protect Cottonwood Creek channel from damage by high flows.
- Provide input on creek, and floodplain reconfiguration and restoration.
- Attend Project Scoping Workshops and meetings throughout preconstruction as agreed upon, including project milestones, actions, Long Lead Time Procurement (LLTP), Guaranteed Maximum Price (GMP), and Construction GMP negotiation meetings. The Project Scoping Workshops will cover at least the following items:
  - Introduction to the project, CMGC partnering session, and the project stakeholders where roles and responsibilities will be identified.
  - Team will review project status, goals, objectives, funding, preliminary preconstruction schedule, etc. Initial schedule should include milestones at 30%, 60%, 90% (design review meeting dates), cost model review meeting, and GMP.
  - Team to work with Contractor to start developing project risk table and plan.
  - Review of relevant plans, specifications, and reports.
  - Team may choose to visit project site and potentially visit Contractor or meet potential subcontractors who add value to the project.
  - Set up progress meeting schedule and initiate working groups for various elements of the project, e.g., bridge working group. Team to establish Document Control Plan.
- Provide construction cost estimates at milestones which include the following:
  - Item identification that is compatible with the City's cost estimating, standards, and specifications.
  - Update the Opinion of Probable Construction Cost (OPCC) work sheet.
  - Quantity reconciliation with designer and the City. This may include verification of means and methods between the City, Design Consultant and an Independent Cost Estimator (ICE) if necessary.
  - Analysis should include availability of labor, equipment, and materials.
- In conjunction with the Design Consultant, the Contractor will provide cost estimates, constructability and phasing reviews for design elements and alternatives as needed throughout the project. This may include:
  - Evaluating industry standard operating and maintenance costs.
  - Determine life-cycle costs.

- Work with design team to make determinations if early procurement LLTP (long lead time procurement) packages for materials are viable and cost effective, have the potential to reduce the construction schedule or provide an overall benefit to the project. These materials would be procured by the Contractor ahead of construction.
- Work with the design team to make determinations if early construction packages are viable, cost effective, or have the potential to reduce the construction schedule and provide an overall benefit to the project.
- Work with the design team to develop ways to simplify construction plan detailing and use electronic design data in construction to accelerate the design phase and construction schedule.
- Prepare a written memo at the end the 30%, 60%, and 90% milestones summarizing the value engineering activities recommended, reviewed, and accomplished or developed within each phase.
- Prepare preliminary construction schedules and phasing alternatives at each preconstruction milestone to determine project costs, attainability of deadlines, and help develop value engineering ideas.
- Lead risk management identification discussions with project team, set risk meeting schedules and prepare and update the project risk register.
- Collaborate with the Project Team to develop a Risk Management Plan, perform risk assessments, and prepare and update the Risk Register.
- Develop and produce the following reports and deliverables as directed by the City PM:
  - Subcontractor Selection Plan
  - Quality Control Plan
  - Material Sourcing Plan
  - Worker and Public Safety Plan
  - Innovation Tracking and Performance Report
  - Procurement Review Report for each LLTP GMP if required.
- Provide monthly invoices and project reports as required by the City to support payment of preconstruction CM services.
- The Contractor shall be required to provide written reviews or reports and details/redlines of the project plans and specification packages at project milestones. The Contractor shall thoroughly review all plans, specifications, reports, diagrams, shop drawings, and all other necessary project documentation. The Design Consultant and Contractor shall independently calculate quantities of the construction package. Comments should be related to constructability, clarifications, design errors or omissions, effect on schedule,



effect on cost, risk identification, or value engineer suggestions/recommendations.

- It is anticipated the Contractor shall submit OPCCs at 30%, 60%, and 90% milestones for each package. Additional OPCC's will be required if work is added to the project. Additional OPCCs may be required before GMP if project team agrees on their necessity before the GMP proposal request.
- The Contractor shall submit a GMP proposal when both the Contractor and the City agree the design has progressed to the appropriate level typically at 90%. The Contractor shall submit GMP proposals and Electronic Bid Submittals (EBS) once a GMP has been accepted.
  - The City may request the Contractor to submit a GMP on early construction packages or for the procurement of LLTP items.
  - The Contractor shall ensure all environmental, safety, and permit commitments that are specified in the plans, specifications, and contract documents are implemented during construction if GMP proposals are accepted by the City.
- If negotiations for a final construction price and the schedule are not successful, the City reserves the right to place the project for open bid. In this case, the Contractor shall be compensated for its pre-construction services per the CMGC services contract and the City will have no further contractual obligations to the Contractor.
- Participate in formal Value Engineering workshop(s) at designated Milestones to coordinate estimating tasks and bring in multidiscipline cost/construction specialists to evaluate alternative designs, systems, and materials.

## **1.2 PROJECT GOALS**

The Academy Blvd. and Cottonwood Creek Trail corridor serves local access to homesteads, recreation, and commerce. It is an important access route to I-25. The City, in partnership with stakeholders in the Pikes Peak Region, is planning permanent improvements for the corridor. The Project Team has identified the following initial goals for the project, tiered by priority:

### **Tier 1 Goals:**

1. Rehabilitate/reconstruct or replace the Academy Blvd. Bridge to accommodate the necessary lengths and widths required to lengthen turn lanes and add ADA compliant pedestrian infrastructure along the bridge.
2. Build a safe system of infrastructure meeting the needs of the traveling public, trail users and stakeholders.
3. Build a complete trail linkage connection to provide hike & bike accessibility along Cottonwood Creek.
4. Coordinate and collaborate with other agencies and stakeholders to maximize mutual benefits, goals and outcomes and to ensure corridor improvements are compatible with one another and don't preclude future infrastructure.

5. Maximize system improvements within the allotted project budget.

Tier 2 Goals:

1. Implement an effective public outreach and communication plan.
2. Complete the roadway project by the end of 2018.
3. Minimize life cycle maintenance costs and provide a quality product.
4. Minimize inconvenience to the public and residents along the corridor and maximize safety for workers, residents and the public.

In addition, it is the City's goal to successfully use the CMGC delivery method to achieve all of these project goals.

### **1.3 PROJECT DESCRIPTION/SCOPE OF WORK**

- **Project Definition**

The purpose of this project is to rehabilitate or replace Academy Boulevard (Academy) bridge and to connect the Cottonwood Creek Trail on either side of Academy with a grade-separated trail crossing. The City is investigating two options to determine which provides the best value to the City.

The project limits extend from the intersection of Academy Blvd. at York Rd. /Brookwood Dr. to approximately 500 feet south of the Academy Bridge. The proposed design includes the widening of Academy Bridge to accommodate lengthened northbound left and right-turn lanes at the intersection. The proposed design also incorporates sidewalks throughout the corridor and pedestrian trail connections. A pedestrian tunnel is included in one option, and both incorporate a standalone pedestrian bridge downstream from Academy Blvd.

Major work items include, but are not limited to: roadway reconstruction and alignment shifts, roadway widening, earthwork, channel mitigation, retaining walls, slope armoring and stabilization, bridge construction and rehabilitation, major and minor drainage features, and creek channel and floodplain improvements.

- **Project Description**

The two design options presented in this RFP are schematic and for general information only. Offerors should discuss and emphasize their approach and overall benefit for the two design options.

- I. **Option 1, Existing Bridge Rehabilitation and Widening with Trail Connection:**

The Rehabilitation Project consists of lengthening the Academy Blvd. Bridge over Cottonwood Creek's multi-celled concrete box culvert to accommodate the addition of full length turn lanes and pedestrian facilities on the bridge. In addition, a new box culvert will be installed at the south end of the bridge for pedestrian tunnel access under Academy Blvd. This

will allow the connection of the Cottonwood Creek Trail from east to west at Academy Blvd. The work associated with the completion of the trail may be included in this contract.

The work will generally consist of, but is not limited to:

### **General**

Work to be performed will require contractor to mobilize into Cottonwood Creek, within the floodplain and normal area of water flow. The contractor will be responsible for accounting for water conveyance through the project site at all times. The contractor will also be responsible for dewatering the project location for the duration of the project.

Work to be performed will require lengthened period of traffic control planning (TCP) to be phased. Phasing must be set up to allow no less than four (4) through lanes of traffic at all times over the bridge and maintain an acceptable access route to homes and businesses in the area. Pedestrian and trail user access will be required at all times during the project duration.

### **Bridge**

The selected contractor will perform repairs on the existing bridge structure. Repairs will include patching holes, cracking, infiltration areas, and other improvements.

The bridge widening will require partial removal of the existing 20ft x 10ft (WxH), five (5) celled, concrete box culvert to accommodate the extension of these cells either through cast-in-place construction or using precast concrete boxes. The existing box culvert will be extended at the east side of the bridge only. The work performed will include all aspect of removal and extending the bridge.

The bridge work will also include the addition of a new 14ft x 10ft and approximately 120ft in length concrete box culvert. The concrete box will be installed on the south end of the bridge to accommodate pedestrian access under Academy Blvd. The selected contractor will be responsible for the complete installation of this system in accordance with the TCP previously referenced. Installation of flood prevention walls, retaining walls, rip rap, and embankment will be required along the channel banks and leading to the northern edge of the new box.

The proposed bridge cross section will be approximately 115ft wide, and be comprised of 8 lanes, median, curb and gutter, pedestrian sidewalks, and railings.

### **Roadway**

Roadway improvements will include alteration of the vertical and horizontal alignments to meet City standards. Additionally, subgrade preparation, installation of drainage inlets and piping, paving, curb and gutter, median improvements, and striping will be performed on the roadway.

The roadway will be widened to allow for the northbound left and right turns along Academy Blvd. at York Rd./Brookside St. to be lengthened to the south abutment of the bridge. This will require an adjustment of the centerline curve to a larger diameter of Academy Blvd to accommodate this extension, and an adjustment of the superelevation the roadway surface will be milled off the bridge deck and for one inch of the existing lanes at the bridge approaches. Waterproofing will be placed over the bridge deck, and new subgrade will be placed over the extended box to allow for the construction of the superelevated roadway and pedestrian improvements. The existing median is anticipated to be removed and replaced with a full length concrete median with curb and gutter.

### **Trail and Pedestrian Infrastructure**

Pedestrian improvements will include the installation of the tunnel and associated concrete flatwork for sidewalks along Academy Blvd., as well as tying into existing sidewalks and trail system.

Completion of the trail and associated work may be included in this project. The design will include the trail extension from the current termination point approximately 100ft upstream to the east of the bridge to the new tunnel placed in this project. Then from the tunnel to the existing trail approximately 1,000ft downstream to the west. The trail is anticipated to be 14ft wide and 5 inches thick. A two span pedestrian bridge (similar to those already in place) is to be constructed at a location approximately 500ft downstream of the academy bridge. The pedestrian bridge will be 12ft wide between the railings and be in accordance with the specifications of the City Parks Dept. Placement of trail and pedestrian bridge will include earthwork (cut/fill), subgrade preparation, concrete flatwork, retaining walls, and riprap placement.

### **Property/ROW**

No dedicated staging area has been acquired at this time. It is anticipated the City will acquire easements as needed to complete the project. It is not anticipated any extra right of way will be acquired as part of this project.

## **II. Option 2, Bridge Replacement with Trail Connection:**

The Bridge Replacement Project consists of removing the existing Academy Blvd. Bridge over Cottonwood Creek's five (5) celled box culvert and replaced with a two-span, multi-phased bridge utilizing precast I-beams. The approximately 140ft long x 115ft wide bridge's substructure is anticipated to include concrete piers or walls and abutment curtain walls. The roadway surface will be raised at the south end of the bridge, and tie into the existing grade approximately 100ft north of the bridge. A trail will be installed under the south end of the bridge to complete the Cottonwood Creek Trail. The work associated with the completion of the trail may be included in this contract.

The work will generally consist of, but is not limited to:

**General**

Work to be performed will require contractor to mobilize into Cottonwood Creek, within the floodplain and normal area of water flow. The contractor will be responsible for accounting for water conveyance through the project site at all times. The contractor will also be responsible for dewatering the project location for the duration of the project.

Work to be performed will require lengthened period of traffic control planning (TCP) to be phased. Phasing must be set up to allow no less than four (4) through lanes of traffic at all times over the bridge and maintain an acceptable access route to homes and businesses in the area. Pedestrian and trail user access at all times will be required.

**Bridge**

The existing bridge will be removed in a phased construction allowing for at minimum four (4) through lanes to remain open and in service at all times. The contractor will remove the existing bridge in accordance to the phasing limits needed. Depended upon final design, construction will require placement of deep or shallow foundation, pier caps, and installation of precast concrete I-beam girders. It is anticipated the bridge deck will be constructed in three phases; the east side, the west side, and the center. The bridge cross section will be approximately 115 feet wide, and be comprised of 8 lanes, median, curb and gutter, pedestrian sidewalks, and railings.

**Road**

Roadway improvements will include backfill to adjust roadway elevation, subgrade preparation, installation of drainage infrastructure, paving, striping, curb and gutter, and median improvements.

The roadway will be widened to allow for the northbound left and right turns at York Rd./Brookside St. to be lengthened to the south abutment of the bridge. It is anticipated that a slight adjustment of the centerline radius curve of Academy Blvd on the bridge is required to accommodate the extension. As well as an adjustment of roadway elevation of approximately 1ft and a lengthening of the vertical curve to the south. The existing lanes will be milled and new subgrade will be placed at the abutments to allow for a constant paved elevation and superelevation across the roadway section. The existing median will be replaced with a full length concrete median with curb and gutter.

**Trail and Pedestrian Infrastructure**

Pedestrian improvements will include the installation of the tunnel and associated concrete flatwork for sidewalks along Academy Blvd., as well as tying into existing sidewalks and trail system.

Completion of the trail and associated work may be included in this project. The design will include the trail extension from the current

termination point approximately 100ft upstream to the east of the bridge to the new tunnel placed in this project. Then from the tunnel to the existing trail approximately 1,000 ft. downstream to the west. The trail is anticipated to be 14ft wide and 5 inches thick. A two span pedestrian bridge (similar to those already in place) is to be constructed at a location approximately 500ft downstream of the academy bridge. The pedestrian bridge will be 12ft wide between the railings and be in accordance with the specifications of the City Parks Dept. Placement of trail and pedestrian bridge will include earthwork (cut/fill), subgrade preparation, concrete flatwork, retaining walls, and riprap placement.

#### **Property/ROW**

No dedicated staging area has been acquired at this time. It is anticipated the City will acquire easements as needed to complete the project. It is not anticipated any extra right of way will be acquired as part of this project.

- **Lead and Supporting Agencies:** The City is the lead agency for the project. Oversight and primary funding is provided by the City, PPRTA and TOPS from Parks & Recreation (Park&Rec).

- **Stakeholders:** Primary project stakeholders and their role or involvement in the project are listed below:

<b>Agency/Stakeholder</b>	<b>Role or Involvement</b>
The City of Colorado Springs Public Works	<ul style="list-style-type: none"> <li>• Project oversight</li> <li>• Funding Entity</li> <li>• Maintenance MS4 oversight</li> </ul>
Pikes Peak Rural Transportation Authority (PPRTA)	<ul style="list-style-type: none"> <li>• Funding Entity</li> </ul>
City Parks & Recreation	<ul style="list-style-type: none"> <li>• Significant input into trail connection</li> <li>• Funding Entity</li> </ul>
Colorado Springs Utilities	<ul style="list-style-type: none"> <li>• Water, Gas, Electric relocation as needed</li> </ul>
Army Corps of Engineers (ACOE)	<ul style="list-style-type: none"> <li>• 404 Permit decisions</li> </ul>
<b>Other Stakeholders</b>	<b>Role or Involvement</b>
Private Property & Business Owners	<ul style="list-style-type: none"> <li>• ROW involvement</li> <li>• Roadway reconstruction input</li> <li>• Access Input</li> </ul>
Traveling Public	<ul style="list-style-type: none"> <li>• Roadway safety/trip reliability input</li> <li>• Will want to know travel impacts/delay/detours</li> </ul>
Recreational Users	<ul style="list-style-type: none"> <li>• Trail access and usage input</li> </ul>
Emergency Responders	<ul style="list-style-type: none"> <li>• Emergency response/access input</li> <li>• Will want to know travel impacts/delay/detours</li> </ul>
Private Utilities	<ul style="list-style-type: none"> <li>• Relocation as needed</li> </ul>

- **Major Project Risks:**
  - Schedule – Beginning construction as early as possible in 2017 and completing roadway elements by December 2018.
  - Phasing/Maintenance of Traffic (MOT) - minimizing impacts to travelers and residents by keeping a minimum of 4 through lanes open and provide sidewalk and Cottonwood Creek trail access at all times for pedestrians and trail users.
  - Environmental Impacts/clearances – Impacts to the environment must be minimized during final design and construction.
  - Construction Site: Major work to be performed in a channel is at risk of washout and groundwater issues.

- Permitting – Significant changes to roadway and creek designs during final design may affect schedule for obtaining the required permits in time to accommodate construction.
- Scope increases and potential schedule changes caused by work items being added to the project as additional funding is identified.
- **Project Design and Development Status:** Below is a general description of work progressed to date and anticipated ongoing work, milestones, and potential early packages:
  - Design – preliminary activities have been conducted to advance critical project elements and define potential environmental and ROW impacts. Design in most areas will remain flexible to accommodate input from the Contractor in the pre-construction phase:
  - Roadway: A conceptual roadway design for the corridor has been developed to an approximate 10% level which generally represents feasible geometric and resiliency improvements acceptable to the City.
  - Hydraulics: Creek and waterway modeling is being conducted in conjunction with the roadway design to develop a conceptual concept of creek and floodplain improvements and to provide a basis for the floodplain permitting process.
  - Geotechnical: Visual field investigations have been conducted. Additional geotechnical investigation will be conducted for bridge, roadway and hydraulic designs.
  - Environmental: Design Consultant will prepare environmental documentation to support clearance under the National Environmental Policy Act. Impacts are anticipated to sites eligible for recreation sites, Section 4(f) properties, Waters of the US, FEMA regulated floodplain, and privately and publicly-owned lands. However, no significant impacts are anticipated. City anticipates that a Documented Categorical Exclusion will be obtained.
  - Permitting and Certifications:
    - Contractor required to obtain permits and certification for construction including, but not limited to:
      - Construction permits such as; traffic control, concrete work, excavation, dewatering, ROE, MS4, utilities and any permits required for structure demolition.
    - ROW: Ownerships and boundaries are being established and ROW plans developed.
- **Existing Operations and Traffic Restrictions:** Due to the traffic volumes and nature of the corridor being a primary route to I-25, a Project Specific Lane Closure Strategy shall be developed and strictly followed during construction. The City will work with the Contractor to develop this strategy. Detours shall be established by the Contractor and must provide access to all routes, residents, and businesses at all times.
- **General Project Constraints and Limitations:**



- All work must be maintained within existing or proposed City easements, ROW and permitted areas.

- **Anticipated Utility Relocations:**

<b>Company</b>	<b>Facility type</b>	<b>Relocation by</b>
Colorado Springs Utilities (CSU)	Power pole, gas, electric (2) and water lines.	Design and relocation done in partnership by City and CSU
Unclaimed	Fiber located under median	TBD
Century Link/ Qwest	Telephone and fiber located underground.	Century Link

- **Coordination and Communication:**

The Contractor must coordinate and communicate with stakeholders to minimize traffic delays and construction impacts. See Section 1.21 – Public Information, for additional communication requirements.

#### **1.4 PROJECT FUNDING**

The source(s) of funding for this CMGC contract are: PPRTA Capital, City General Fund and Park & Rec TOPS Fund. Additional funding may be provided by other entities.

#### **1.5 PROJECT DURATION**

The time period for the work described in this scope is as indicated in Section 1.12 Performance Period.

#### **1.6 PROJECT ADMINISTRATION**

The Contract Administrator for this project is:

Name: TBD

Title: TBD

Address: TBD

Phone: TBD

The City Project Manager and Primary Point of Contact:

Name: TBD

Title: TBD

City of Colorado Springs, Public Works

Capital Improvements Program

30 S. Nevada Ave. Suite 401

Colorado Springs, CO 80901

#### **1.7 PROJECT COORDINATION**

A. Routine Working Contacts:

The routine working contacts will be between the City PM, the Design Consultant Project Manager (DC PM), and the Contractor Project Manager (CMGC PM).

B. Project Manager Correspondence/Communication Requirements

Each Project Manager will provide the others with the following:

- A written synopsis or copy of their respective contacts (both by telephone and in person).
- Copies of pertinent written communications including, but not limited to, emails, memorandums, letters, meeting minutes, and phone logs.

C. Coordination

The Contractor shall partner with the Design Consultant and the City Management Team as part of the design team. The following groups will be part of that partnership and will be required to coordinate with each other:

- The City Management Team
- Selected Project Design Consultant and any Sub-consultants
- Selected Project CMGC Contractor and any Sub-contractors
- Other Contractors
- Independent Cost Estimator/ City Cost Estimator
- The City Maintenance Groups
- City Parks and Recreation
- Stakeholders or Stakeholder Groups:
  - CSU
  - Others
- The City management team shall be included in all coordination.

### **1.8 FIXED LIMIT OF CONSTRUCTION COST**

The Fixed Limit of Construction Cost is the estimated portion of the project budget allocated for the construction phase of the project that includes all construction contract amounts for all construction packages for the project. Each construction contract amount includes the total actual price of construction, the CMGC Management Price Percentage applied to each construction item, and all indirect costs, force accounts, and risk pools that are associated with the construction of all elements of the work designed or specified by the Design Consultant.

The CMGC Management Price Percentage is defined in Section 2 CMGC Requirements and Proposal Instructions. **The expected range of the Fixed Limit of Construction Cost for this project is approximately \$3 Million for the bridge rehabilitation option and \$5 million for the new bridge option.** See Exhibit 5 for design option descriptions.

### **1.9 PROJECT CONSTRUCTION SCHEDULE**

The City desires to begin construction activities expeditiously in 2017, and to minimize the length of time residents and users of the roadway are impacted by construction, with the goal of the roadway elements as a minimum being completed by the end of 2018.

The estimated construction schedule is from Spring of 2017 to Spring of 2018. Milestones, and preliminary project packaging concept is shown below:

A. Mandatory project milestones:

- Roadway,
- Bridge
- Trail
- Creek stabilization
- Project complete by end of April 2018

B. Preliminary project packaging and schedule:

- The City anticipates developing singular construction packages to complete construction in the corridor.
- The construction package will be severable, and will have specific beginning and end points. The package will include provisions for liquidated damages, incentive/disincentive, and roadway users costs in accordance with City specifications as appropriate.

Alternate schedules may be allowed, but milestones must be met and impacts to traffic and area residents must be minimized and approved by the City. The Contractor must recognize this is a very sensitive corridor with significant traffic volumes and environmental considerations and is expected to communicate with stakeholders before and during construction.

The Project Team, including the City, the Contractor, and Design Consultant, will create a Baseline Schedule. The Contractor shall develop and manage a Critical Path Method (CPM) Project Schedule to plan, schedule, and report the progress of the work. The Contractor shall follow other requirements related to the creation and maintenance of the project schedule.

After the Baseline Schedule is created, updated schedules must be submitted by the Contractor monthly, after any significant change to project, and otherwise as direct by the City. Major goals are to minimize impacts to traveling public and local residents while maintaining or improving upon completion schedule.

## **1.10. PRELIMINARY DOCUMENTS AND DRAWINGS**

### **Background Documents:**

- Academy over Cottonwood Creek Structure Evaluation and Project Cost Estimate, February 2012
- As-built documents of Academy over Cottonwood Creek Bridge

### **Project Preliminary Documents:**

- Academy over Cottonwood Creek Conceptual Design Documents
- Typical Section and conceptual quantities for major items
- Plans – plans with conceptual horizontal alignment
- Reports: Geotechnical - preliminary site Investigation Report - for information purposes only.

### **1.11. SPECIFICATIONS**

The City Standard Specifications Manual and all applicable Engineering Design Criteria manuals in addition to the CDOT 2011 Standard Specifications for Road and Bridge Construction controls construction of this project. The City, with the assistance of the Design Consultant, will develop the project special and standard special provisions that will take precedence over the Standard Specifications and plans.

### **1.12. REQUIRED PERCENTAGE OF WORK**

The Offeror must perform the CMGC services work valued at not less than **75%** of the total work, excluding specialized services, with its own staff. Specialized services are those services or items that are not usually furnished by a Contractor or Joint Venture performing the particular type of service contained in this RFP. One partner managing another partner as a subcontractor will not be allowed.

### **1.13. PROJECT COMPUTER SOFTWARE REQUIREMENTS**

The Contractor shall utilize the most recent City adopted software. Latest version is defined as the version in use at the beginning of the project. Version does not need to be upgraded during the project. The primary software used by the City is as follows:

- Estimating: Microsoft Excel (latest version) or other software that is compatible with providing pricing on the City Schedule of Bid Items standard format.
- Specifications: Microsoft Word (latest version)
- Centric
- CADD: AutoCAD Civil 3d 2015 and Microstation V8i SS3

### **1.14. APPLICABLE FEDERAL AND STATE REGULATIONS**

The Offeror shall conform to all applicable State and Federal regulations and recognized industry, safety, environmental, and design standards.

### **1.15. EXPLANATION OF GUARANTEED MAXIMUM PRICE (GMP)**

The Guaranteed Maximum Price (GMP) is the amount that will be incorporated into the standard CMGC Construction Project Contract for Construction Services. The GMP is the sum of the direct Cost of Construction and the CMGC Management Price Percentage for a specific construction package. The City and the selected Contractor will refine the Cost Model, consisting of bid items, quantities, risks and assumptions for the construction package, through a series of Cost Model meetings. The selected Contractor will propose a GMP and if necessary, the City and the selected Contractor will negotiate the direct Cost Construction for that package to agree on a final GMP. Payment for the construction of the project will be paid through a Schedule of Bid items as per the Standard Specifications for Road and Bridge Construction.

The City anticipates requesting GMP proposals when both the Contractor and the City agree the design has progressed to the appropriate level, typically at 90%. The Contractor shall submit GMP proposals and Electronic Bid Submittals (EBS) once a GMP has been accepted. Multiple GMPs may be developed and accepted during the design and construction phases of this project. The City reserves the right not to award any parts(s) or all of the Construction Services, and bid/award some or all of the

construction work separately. The selected Contractor shall deliver to the City a proposed GMP and GMP Supporting Documents at any appropriate milestones identified at the Project Scoping Workshop for an appropriate LLTP or construction phase.

Except for change orders, agreed overrun items and agreed upon risk pool items approved by the City, a GMP will not be increased. The Contractor assumes all risk with performance of the bid items, including management of its subcontractors, suppliers, and any associated cost impacts over and above a GMP not listed as overrun items in the construction specifications or agreed to as risk pool items in the executed Risk Register. A GMP proposal can be offered and negotiated three times. After the third and final attempt at a GMP negotiation, the City reserves the right to prepare the plans, specifications, and estimate package for advertisement. The CMGC services contractor will not be allowed to bid.

The City will establish the City risk and shared risk contingency pools with the Contractor that will be discussed during the preconstruction phase that, if adopted, would be incorporated into a negotiated GMP. The purpose of the contingency risk-sharing pool is to develop a budget for items foreseen at the time of negotiating a GMP, but not detailed enough for itemized pricing. Any and all items fitting this category will be identified separately in a GMP and will be monitored for progress and cost. The actual process will be negotiated as part of the CMGC construction contract.

In developing this shared risk contingency pool, the City may agree to share cost savings in construction (not attributed to any reduction in the scope of work or reduction in operating performance for the corridor) that may occur after a GMP has been negotiated with the Contractor and as agreed to in the executed project Risk Register.

### **PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX**

The following activities of communication, consensus building, project team reviews, conceptual design, data gathering, documentation, and formal public notice should be planned by the appropriate responsible party and coordinated with all team members. The time of their accomplishment will overlap, and parallel paths of activity should be planned to finish the development phase in meetings, documents, etc., will depend on the category and characteristics of the project work. A proposal shall be developed by the Contractor which satisfies the requirements of the project development. This plan must be approved by the Contract Administrator before starting the work.

## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b><u>INITIAL PROJECT SCOPING MEETING (WORKSHOP)</u></b>			
A. CMGC AND PARTNERING INTRO SESSION	C	C	C
B. PROJECT SITE VISIT AND INSPECTION	1	2	2
C. PROJECT STATUS, GOALS, ELEMENTS, OBJECTIVES, DESIGN SCHEDULE REVIEW	C	C	C
D. IDENTIFY PROJECT RISKS AND DEVELOP INITIAL RISK MANAGEMENT PLAN AND RISK REGISTER	1		2
E. REVIEW APPLICABLE ENVIRONMENTAL DOCUMENTS (CE, REPORTS, ETC.)	1	2	
F. INDEPENDENT DESIGN AND AS-BUILT REVIEW	1		
G. DEVELOP PROJECT SCHEDULE AND TASKS	1	2	
H. SCHEDULE BI-WEEKLY PROGRESS, FIR, FOR, AND MILESTONES MEETINGS		2	1
I. IDENTIFY DESIGN CRITERIA		1	2
J. DISCUSSION OF POSSIBLE EARLY DELIVERY AND LONG LEAD TIME ITEMS	1	2	
K. ANALYSIS OF PROJECT PHASING AND MULTIPLE PS&E PACKAGES	1	2	
L. DEVELOP DOCUMENT REVIEW AND NAMING CONVENTION STANDARDS		2	1
L. QUESTION AND ANSWER SESSION	C	C	C
<b>VALUE ENGINEERING WORKSHOP</b>			
A. BACKGROUND MATERIALS FACILITATION, REPORT		1	2
B. PARTICIPATION IN WORKSHOP	C	C	C
<b>PROGRESS MEETINGS</b>			
A. THE CITY PM, DC PM, CMGC PM	C	C	C
B. PROJECT MEETING MINUTES		1	
<p>The managers and team members will meet periodically as required (typically at one-week intervals). These progress meetings will be used to coordinate and track the work effort and resolve problems. The meetings will review the following:</p> <ul style="list-style-type: none"> <li>• Activities required to be complete since last meeting (Action Items)</li> <li>• Problems and challenges encountered/anticipated and potential solutions</li> <li>• Project Schedule Updates (Design and Construction)</li> <li>• Action Items</li> <li>• Coordination and communication required with Team Members, the City Specialty Units, Other</li> </ul> <p>The City/PM will provide meeting minutes that include details discussed, notes, and all action items relating to the meeting within one week of the meeting.</p>			

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b><u>1. PROJECT DEVELOPMENT PROCESS</u></b>			
<b>Project Management</b>	2	2	1
The City PM will coordinate all the work tasks being accomplished by all parties to ensure project work completion stages are on schedule. The City PM and CMGC PM shall coordinate all the work tasks being accomplished by their respective teams to make sure project work completion stages are on schedule			
<b>Communication and Consensus Building</b>	2	2	1
The City PM is responsible for the consensus building and facilitating the communication between all members of the project team. This does not dismiss the responsibility of all team members to communicate with the City/PM and the City Project Management Team when required.			
<b>Public Involvement</b>		1	2
Develop news releases for the City PM and coordinate Public Meetings			
<b>Maintain Updated Contact List</b>		2	1
Establish and maintain a computerized list of all appropriate interested parties for the communication process. The list will be used for notices regarding public meetings, mailings, newsletters, or other communication as appropriate.			
<b><u>2. MEETINGS</u></b>			
• <b>Graphics support and presentations</b>		1	2
Each project team member is responsible for the graphics, documents, reports, plans, specifications, and written reviews from each specific scope of work item. Presentation of these documents and their reviews will be available on the shared project server after the meeting has been adjourned.			
• <b>PM Updates on Progress</b>	2	2	1
The City PM, CMGC PM, and the DC PM will all update the team members at the scheduled meetings as to their progress on deliverables, challenges, and the feedback/comments they need.			
• <b>Project Discussion</b>	C	C	C
The team members need to come prepared to discuss any and all reservations, ideas, and challenges to the project. Open and honest dialogue is the key to the success of project delivery.			
• <b>Public Meetings</b>	c	C	C
The team members need to come prepared to discuss status of project in coordination with the City PM.			

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## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b><u>2. PRELIMINARY DESIGN</u></b>			
Preliminary Roadway, Geometric, Structural, Environmental, SWMP, etc. Design		1	
The City PM will coordinate all design activities with required City specialty units, the Contractor, the Design Consultant, and other outside entities. Design Consultant is responsible for the civil and structural design, plans, specifications, and estimate packages at each formal review.			
Environmental - gathering data, analysis, and mitigation development		1	2
Environmental clearances		1	2
ROW, specialty, and local clearances		2	1
Hazardous material investigation		1	2
City processes (forms, clearances)			1
Utility coordination		1	2
Conduct field survey of project area.	2	1	
Field and project research	C	C	C
Field survey and existing feature investigation		1	
Construction requirements		2	1
Innovation development, proposal, and tracking	1	2	
Check and field verify all applicable as-built plans	2	1	2
Provide construction plans, specifications, and estimates	2	1	
Plot/develop all required information on the plans in accordance with all applicable City policies and procedures and all industry standards for civil, electrical, ITS, and structural design.	2	1	
Develop construction cost model for Engineer Estimator and ICE	1		
Develop and calculate quantities	2	1	
Risk Register development	1	2	
Initiate and Track DBE/ESB and Subcontractor Plan	C	C	C
Constructability reviews and reports	1	2	
Construction Phasing	1	2	
Value Engineering proposals	1	2	

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY



## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
Cost savings reviews	C	C	C
Preliminary construction schedule	1	2	
Long lead time CAP submissions and proposals	1		
Long lead time negotiations	1		
Long lead time item procurement	1		
Opinion of probable construction cost Estimate #1	1	2	
<b>30% milestone FIR (Field Inspection Review) Preparation</b>			
Coordinate, complete, and compile the plans with inputs from other branches: materials, hydraulics, environmental, traffic, right of way, maintenance, safety, and Staff Bridge, if applicable.		1	
The 30% milestone plans and specifications shall comply with the City requirements and shall include: title sheet, typical sections, general notes, plan/profile sheets, and preliminary layouts.		1	2
The plans shall be submitted to the City/PM and the CMGC/PM for preliminary review at least one week prior to the FIR (30% milestone)		1	
Prepare the Engineer's Estimate for work described in the 30% milestone plans based on estimate quantities.		1	
Prepare the 30% preconstruction pricing milestone		1	
<b>Field Inspection Review Meeting</b>			
Review 30% milestone PS&E package and provide written reviews, comments, and redlines.	C	C	C
Attend the FIR.	C	C	C
Provide post-FIR revisions and memo.	C	C	C
Provide list of all deviations from the standard design criteria and written justification for each.		1	2
Update DBE/ESB and Subcontractor Plan.	2	1	
Update Risk Register and Cost Model.	1	2	

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b><u>3. PRELIMINARY (60%) DESIGN</u></b>			
Preliminary (60%) Roadway, Geometric, Structural, Environmental, SWMP, etc. Design		1	
The City PM will coordinate all design activities with required THE CITY specialty units, the Contractor, the Design Consultant, and other outside entities. Design Consultant is responsible for the civil and structural design, plans, specifications, and estimate packages at each formal review.			
Environmental - gathering data, analysis, and mitigation development		1	2
Environmental clearances		1	2
ROW, specialty, and local clearances		2	1
Flood Development/FEMA Coordination & Permitting		1	2
City processes (forms, clearances)			1
Utility coordination		1	2
Conduct field survey of project area.	2	1	
Field and project research	C	C	C
Hazardous material investigation	1	2	
Field survey and existing feature investigation	2	1	
Construction requirements		2	1
Innovation development, proposal, and tracking	1	2	
Check and field verify all applicable as-built plans	2	1	2
Provide construction plans, specifications, and estimates	2	1	
Plot/develop all required information on the plans in accordance with all applicable City policies and procedures and all industry standards for civil, electrical, ITS, and structural design.	2	1	
Develop construction cost model for Engineer Estimator and ICE	1		
Develop and calculate quantities	2	1	
Risk Register development	1	2	
Initiate and Track DBE/ESB and Subcontractor Plan	C	C	C
Constructability reviews and reports	1	2	
Construction Phasing	1	2	
Value Engineering proposals	1	2	

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## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
Cost savings reviews	C	C	C
Preliminary construction schedule	1	2	
Long lead time CAP submissions and proposals	1		
Long lead time negotiations	1		
Long lead time item procurement	1		
Opinion of probable construction cost Estimate #1	1	2	
<b>60% milestone FIR (Field Inspection Review) Preparation</b>			
Coordinate, complete, and compile the plans with inputs from other branches: materials, hydraulics, environmental, traffic, right of way, maintenance, safety, and Staff Bridge, if applicable.		1	
The 60% milestone plans and specifications shall comply with the City requirements and shall include: title sheet, typical sections, general notes, plan/profile sheets, and preliminary layouts.		1	2
The plans shall be submitted to the City/PM and the CMGC/PM for preliminary review at least one week prior to the FIR (60% milestone)		1	
Prepare the Engineer's Estimate for work described in the 60% milestone plans based on estimate quantities.		1	
Prepare the 60% preconstruction pricing milestone		1	
<b>Field Inspection Review Meeting</b>			
Review 60% milestone PS&E package and provide written reviews, comments, and redlines.	C	C	C
Attend the FIR.	C	C	C
Provide post-FIR revisions and memo.	C	C	C
Provide list of all deviations from the standard design criteria and written justification for each.		1	2
Update DBE/ESB and Subcontractor Plan.	2	1	
Update Risk Register and Cost Model.	1	2	

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

## PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b>Final Roadway, Geometric, Structural, Environmental, SWMP, etc. Design</b>		1	
The City PM will coordinate all design activities with required City specialty units, the Contractor, the Design Consultant, and other outside entities. Design Consultant is responsible for the civil and structural design, plans, specifications, and estimate packages at each formal review.			
Environmental - gathering data, analysis, and mitigation development		1	2
Final environmental clearances		1	2
Final environmental permits		1	2
ROW, specialty, and local clearances		2	1
Final utility coordination	2	2	1
Develop and calculate final quantities	2	1	
City processes (forms, clearances)			1
Update Risk Register, formal risk assessment meeting	1	2	
Constructability reviews and reports	1	2	
Construction Phasing Plan	1	2	
Value Engineering proposals	1	2	
Final construction requirements	2	1	
Innovation development, proposal, and tracking	1	2	
Cost Savings reviews	C	C	C
90% preconstruction milestone/Final Office Review (FOR) Construction Schedule	1	2	
Long lead time CAP submissions and proposals	1		
Long lead time negotiations	1		
Long lead time item procurement	1		
Opinion of Probable Construction Cost Estimate #3	1	2	
Provide 90% preconstruction milestone construction plans, specifications, and estimates		1	
Develop and calculate final quantities	2	1	

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

**PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED**

<b>CONSTRUCTION MANAGEMENT SERVICES</b>	<b>REQUIRED OF CONTRACTOR</b>	<b>REQUIRED OF DESIGN CONSULTANT</b>	<b>REQUIRED OF THE CITY/OTHERS</b>
<b>PHASE: PRE-CONSTRUCTION</b>			
<b>90% Milestone/FOR (Final Office Review) Preparation</b>			
Coordinate, complete, and compile the 90% milestone plans with inputs from other branches: materials, hydraulics, environmental, traffic, right of way, maintenance, safety, and Staff Bridge if applicable.		1	
The 90% milestone plans and specifications shall comply with the City requirements and shall include: title sheet, typical sections, general notes, plan/profile sheets, and preliminary layouts.			1
The plans shall be submitted to the City/PM and the CMGC/PM for preliminary review at least one week prior to the 90% milestone.		1	
The 90% milestone plans will be reproduced electronically by the City			1
Prepare the Engineer's Estimate for work described in the FOR plans based on estimate quantities.	2	1	
Prepare the 90% preconstruction milestone	2	1	
<b>90% Milestone/FOR (Final Office Review) Meeting</b>			
Review 90% milestone PS&E package and provide written reviews, comments, and redlines.	C	C	C
Attend the 90% milestone meeting.	C	C	C
Post-90% milestone revisions and memo	C	C	C
Provide list of all deviations from the standard design criteria and written justification for each.		1	2
Provide a 90% milestone Construction Plan.	1	2	
Obtain final construction and access permits.	1		-
Finalize construction cost model for Engineer Estimator and ICE.	1	2	
Update Risk Register.	1	2	

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

**PRECONSTRUCTION ROLES AND RESPONSIBILITIES MATRIX - CONTINUED**

CONSTRUCTION MANAGEMENT SERVICES	REQUIRED OF CONTRACTOR	REQUIRED OF DESIGN CONSULTANT	REQUIRED OF THE CITY/OTHERS
<b>PHASE: PRE-CONSTRUCTION</b>			
<b>CAP Proposal and Negotiations</b>			
Notify the City PM at a point where CAP proposals can be sufficiently prepared.	2	1	
Supply cost model and assumptions to ICE and Engineer Estimate.	1	2	
Supply EBS and Construction Contract Checklist to CMGC Contractor.		1	
Prepare and submit construction CAP proposal	1		
Procure independent cost estimate.			1
Submit an electronic EBS to the City PM for each phase.		1	
Review the construction CAP proposals and compare to Engineer's Estimate and ICE.			1
Negotiate final CAP for each phase.	2		1
CMGC and the City have three attempts to negotiate assumptions and prepare CAP estimates. After the third opening, the City reserves the right to prepare the bid package for advertisement.			

LEGEND: C = COLLABORATIVE RESPONSIBILITY, 1 = PRIMARY RESPONSIBILITY, 2 = SECONDARY RESPONSIBILITY

## EXHIBIT 6 – QUALIFICATION STATEMENT

### CITY OF COLORADO SPRINGS QUALIFICATION STATEMENT

This statement will provide information which will enable the City to evaluate the qualifications of your firm and staff with regard to the requirements of this Request for Proposal. Please complete this form in its entirety and submit it (in the number of copies requested) along with the other required proposal documents. If a request in the Qualification Statement is contained in the proposal, indicate the section in the proposal where that information can be found.

**(PRINT)**

FIRM NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY STATE ZIP: \_\_\_\_\_  
AUTHORIZED REPRESENTATIVE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
AUTHORIZED SIGNATURE: \_\_\_\_\_  
PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_

**1. TYPE OF BUSINESS**

**2. TYPE OF LICENSE & LOCATION**

CORPORATION ☐ INDIVIDUAL ☐  
PARTNERSHIP ☐ JOINT VENTURE ☐  
OTHER: \_\_\_\_\_

**3. TYPE OF SERVICE TO BE PROVIDED FOR RFP:** \_\_\_\_\_

**4. NUMBER OF YEARS IN BUSINESS:** \_\_\_\_\_

**5. ON A SEPARATE SHEET PROVIDE A BRIEF HISTORY OF YOUR FIRM, STAFF SIZE AND EXPERIENCE. SUBMIT A RESUME FOR THE PROJECT MANAGER AND EACH KEY PERSONNEL ASSIGNED TO THIS PROJECT.**

**6. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED UNDER:** \_\_\_\_\_

**7. HAVE YOU OR YOUR FIRM EVER FAILED TO COMPLETE ANY WORK AWARDED TO YOU?** YES ☐ NO ☐ IF "YES", EXPLAIN:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8. HAS ANY OFFICER OR PARTNER OF YOUR ORGANIZATION EVER BEEN AN OFFICER OR PARTNER OF ANOTHER ORGANIZATION THAT FAILED TO COMPLETE A CONTRACT WITHIN THE LAST FIVE (5) YEARS?** YES ☐ NO ☐  
IF "YES", EXPLAIN:

9. HAS YOUR FIRM OR ANY PARTNERS OR OFFICERS EVER BEEN INVOLVED IN ANY

BANKRUPTCY ACTION? YES ☐ NO ☐ IF "YES", EXPLAIN:

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10. ARE YOU PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY GOVERNMENT AGENCY? YES ☐ NO ☐ IF "YES", EXPLAIN TYPE, KIND, PLAINTIFF, DEFENDANT, ETC., AND STATE THE CURRENT STATUS:

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11. BANK

REFERENCE:

ADDRESS:

CONTACT:

PHONE:

12. LIST THREE (3) SIMILAR PROJECTS (LOCAL OR STATE-WIDE) **FROM LAST FIVE (5)**

**YEARS**-INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBERS

NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project:

Size of Project:

Contract Amount:

Contact Name and Title:

Contract Address:

Contact telephone and FAX Numbers:

2. Location of Project:

Size of Project:

Contract Amount:

Contact Name:

Contact Address:

Contact telephone and FAX Numbers:

3. Location of Project:

Size of Project:

Contract Amount:

Contact Name:

Contact Address:

Contact telephone and FAX Numbers:



**13. LIST CURRENT SIMILAR PROJECTS (LOCAL OR STATE-WIDE) UNDER CONTRACT-**  
 INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT)  
 CONTACT NAME, ADDRESS, TELEPHONE NUMBERS.

NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project: \_\_\_\_\_  
 Size of Project: \_\_\_\_\_  
 Contract Amount: \_\_\_\_\_  
 Contact Name and Title: \_\_\_\_\_  
 Contact Address: \_\_\_\_\_  
  
 Contact telephone and FAX Numbers: \_\_\_\_\_

2. Location of Project: \_\_\_\_\_  
 Size of Project: \_\_\_\_\_  
 Contract Amount: \_\_\_\_\_  
 Contact Name and Title: \_\_\_\_\_  
 Contact Address: \_\_\_\_\_  
 Contact telephone and FAX Numbers: \_\_\_\_\_

3. Location of Project: \_\_\_\_\_  
 Size of Project: \_\_\_\_\_  
 Contract Amount: \_\_\_\_\_  
 Contact Name and Title: \_\_\_\_\_  
 Contact Address: \_\_\_\_\_  
 Contact telephone and FAX Numbers: \_\_\_\_\_

**14 LIST OF SUB-CONTRACTORS TO BE USED FOR THIS PROJECT IN ORDER OF HIGHEST PERCENTAGE OF WORK TO BE PERFORMED: (INCLUDE NAME, ADDRESS, TELEPHONE NUMBER, TYPE OF WORK)**

1. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of Work: \_\_\_\_\_  
 2. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of Work: \_\_\_\_\_  
 3. Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 Type of Work: \_\_\_\_\_

**IF ADDITIONAL INFORMATION IS PROVIDED ON A SEPARATE SHEET  
FOR ANY OF THE ITEMS, CLEARLY SPECIFY WHERE IT CAN BE  
LOCATED IN YOUR PROPOSAL PACKAGE.**

## EXHIBIT 7 – EVALUATION SCORESHEET

### EVALUATION AND CMGC MANAGEMENT PRICE PERCENTAGE PROPOSAL FORMS

#### PROPOSAL, ORAL INTERVIEW EVALUATION SCORING NOTES:

- i. The City has developed a CMGC Selection Panel Scoring Guide to promote objectivity and transparency. Selection Panel Members are required to read and follow all scoring guidelines.
- ii. All Selection Panel Members have signed Non-Disclosure Agreements and Conflict of Interest Disclaimers as part of this procurement and cannot directly be contacted by or contact anyone outside of the Engineering Contracts Officer about this project until the CMGC Services Contract has been executed.
- iii. Agencies are encouraged to include additional criteria that reflect the unique characteristics of the project under each category to help determine the submitter's overall qualifications.
- iv. Weights are to be assigned prior to evaluation and are to be consistent on all evaluation forms. Comments by Selection Panel members are required on all scoring forms so that all Offerors may receive constructive feedback on their proposals and performance.
- v. Selection Panel scoring values will be in whole number increments only. Scoring for the Proposal and Oral Interview Criteria form will be based on the following Qualitative Assessment Guidelines, which will be applied to all sections except the CMGC Management Price Percentage.

	Qualitative Assessment Guidelines
Score	Selection Team members will individually review and score each proposal category according to the criteria set forth in the RFP. Team members will evaluate each category sub-factor listed in this Evaluation Manual and assign those sub-factors a Qualitative Assessment Percentage according to the scoring range listed below:
5	The Offeror demonstrates a complete understanding of the subject and an approach that significantly exceeds the stated requirements and objectives of this scoring category. The proposal communicates an outstanding level of quality. The Offeror's qualifications are exceptional. Proposal shows no weaknesses or deficiencies for this scoring category.
4	The Offeror demonstrates a strong understanding and has a strong approach to the scoring category. The proposal communicates a high level of quality and the proposal exceeds the stated requirements of the RFP. The proposal shows few weaknesses or deficiencies for this scoring category.

3	The Offeror demonstrates a general understanding of the project and an approach containing some weaknesses/deficiencies regarding the stated requirements and objectives of this project. The proposal communicates an average level of quality and meets the stated requirements of the RFP.
2	The Offeror has demonstrated a below average understanding of this scoring category and their response contains significant weaknesses and deficiencies. The proposal communicates a below-average level of quality. The Offeror's qualifications raise questions about the Offeror's ability to successfully meet the project goals.
1	The Offeror has demonstrated a minimal understanding of this scoring category and their response contains numerous weaknesses and deficiencies. The proposal demonstrates little or no level of quality or value. The Offeror's qualifications raise questions about the Offeror's ability to successfully meet the project goals.

**CMGC MANAGEMENT PRICE PERCENTAGE PROPOSAL EVALUATION**  
**SCORING NOTES:**

1. Determine score for each firm's sealed CMGC Management Price Percentage Proposal. The maximum point total for this section is 20 points.
  - A. CMGC Management Price Percentage      20 Point Maximum
    - Must include all supporting information required in Section 3.3 and on Form B-2
    - CMGC Management Price Percentage Scoring information is described in Section 3.3 of this RFP.

**TOTAL SCORING EVALUATION SCORING NOTES:**

3. The maximum point total for each of three evaluation sections is as follows:

<b><u>Section:</u></b>	<b><u>Score</u></b>
Proposal	80 pts (Scoring Form B-1)
CMGC Management Price Percentage Proposal	20 pts (Scoring Form B-2)

4. After the evaluation of the Proposal, the three highest ranked Offerors will be short listed and be invited to interview and submit sealed CMGC Management Price Percentage Proposals.

The Offeror with the highest total score in all sections will be selected. The score from the qualitative evaluations from all Selection Panel Members will be averaged to produce the total overall score for each Offeror.

**CITY OF COLORADO SPRINGS PUBLIC WORKS  
SCORING FORM B-1: PROPOSAL EVALUATION FORM  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES**

Name of Firm: \_\_\_\_\_  
 Name of Project: \_\_\_\_\_  
 Evaluator No: \_\_\_\_\_  
 Date: \_\_\_\_\_

RFP Reference: Meets Minimum  
 Requirements

YES

NO

If the minimum requirements (including letter from surety) have not been met, specify the reason(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

**Project Management Team/Capability of the Contractor - 20 Points**

1 **Maximum**

**Project Management Team**

Composition and Commitment of Project  
 Management Team  
 Team Building and Collaboration  
 Organizational Chart and Succession  
 Planning

Rating

Weight

Score

	x	1.00	=	
	x	0.25	=	
	x	0.25	=	

2 **Project Team Capability**

Project Background and Success  
 Prior Experience and Performance  
 Familiarity with the City Specifications and  
 Standards  
 Safety Record and Performance

	x	0.5	=	
	x	0.5	=	
	x	0.5	=	
	x	0.5	=	

**Strategic Project Approach: 20 Points**

3 **Maximum**

Preconstruction Strategic Approach  
 Construction Strategic Approach

Rating

Weight

Score

	x	1.25	=	
	x	1.25	=	

**Approach to Cost, Schedule, and Risk:  
 25 Points Maximum**

4

Cost Model Approach  
 Schedule Approach  
 Risk Management Approach

Rating

Weight

Score

	x	1.00	=	
	x	1.00	=	
	x	1.00	=	

**Project Innovations: 15 Points**

5 **Maximum**

Project Innovations  
 Unique Resources and Capabilities

Rating

Weight

Score

	x	1.00	=	
	x	1	=	

**TOTAL SCORE: (80 Points Maximum)**

**CITY OF COLORADO SPRINGS PUBLIC WORKS  
SCORING FORM B-2: CMGC MANAGEMENT PRICE PERCENTAGE PROPOSAL FORM  
CONSTRUCTION MANAGER/GENERAL CONTRACTOR SERVICES**

Name of Firm: \_\_\_\_\_  
 Name of Project: \_\_\_\_\_  
 Evaluator No: \_\_\_\_\_  
 Date: \_\_\_\_\_

Acknowledge receipt of Addendums

No. \_\_\_\_\_  
 No. \_\_\_\_\_  
 No. \_\_\_\_\_

**CMGC Management Price Percentage Proposal Section** **20 Points  
Maximum**

For instructions, requirements, and scoring for the CMGC Management Price Percentage see Section 3.3. This form only requires CMGC Management Fee Percentage.

**1. CMGC Management Price Percentage (20 Points  
Maximum)**

%  
 (Contractor Required  
Input Above)

Normalized:      Average %      x      20  
                          Contractor %

**\*Note: Scoring calculation will be conducted by the Selection Panel. See Section 3.3 and Form B-3 for instructions.**

**TOTAL SCORE: (20 Points Maximum)**     

\_\_\_\_\_  
 Applicant or Corporate Officer Signature      Date      Title

\_\_\_\_\_  
 Applicant or Corporate Officer Signature      Date      Title

\_\_\_\_\_  
 Applicant or Corporate Officer Signature      Date      Title

### CMGC MANAGEMENT PRICE PERCENTAGE PROPOSAL FORM B-3

	<b>Costs included in CMGC Management Price Percentage</b>	<b>%</b>
<b>Item</b>	<b>Other indirect and non-reimbursable costs to be included in the CMGC price percentage are listed below</b>	
C.1	Project Principal – all costs	
C.2	Project Manager relocation, housing, and subsistence costs.	
C.3	Construction Manager/Superintendent relocation, housing, and subsistence costs.	
C.4	Additional CMGC staff relocation, housing, and subsistence cost.	
C.5	Home, branch and regional office administrative support staff and all related costs.	
C.6	Home, branch and regional office safety support staff and all related costs	
C.7	Public Involvement Management – all related cost	
C.8	Home, branch and regional office quality control support staff and all related	
C.9	Profit	
	<b>Total CMGC Price Percentage</b>	

Note: Items C.2 through C.6 may be zero.

**EXHIBIT 8 –PERFORMANCE BOND**

**CITY OF COLORADO SPRINGS, COLORADO & PIKES PEAK RURAL TRANSPORTATION  
AUTHORITY PERFORMANCE BOND**

1. KNOW ALL MEN BY THESE PRESENTS, THAT:

\_\_\_\_\_  
(contractor name)

\_\_\_\_\_  
address)

as Principal, hereinafter called Principal, and

\_\_\_\_\_  
(surety name)

\_\_\_\_\_  
(surety address)

a corporation organized and existing under the laws of the State of \_\_\_\_\_ and authorized to do business within the STATE OF COLORADO, as Surety, hereinafter called Surety, are held firmly bound unto the CITY OF COLORADO SPRINGS, COLORADO as Obligee, and the PIKES PEAK RURAL TRANSPORTATION AUTHORITY as Obligee, hereinafter called the Obligees, for the use and benefit of claimants as hereinbelow defined, in the amount of \_\_\_\_\_ :  
\_\_\_\_\_ - (\$\_\_\_\_\_.00), lawful money of the United States of America, together with interest as may be provided by law, for the payment whereof Principal and Surety bind themselves, their heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS, Principal and the Obligees have entered into a contract dated the \_\_\_\_\_ day of \_\_\_\_\_ 2016 for the following (project B16-T108NS \_\_\_\_\_  
(Contract # \_\_\_\_\_), which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

3. NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the Principal shall promptly and faithfully perform all terms, conditions and other obligations of the Contract, and any modifications or extensions thereof granted by the Obligees, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

4. The Surety for value received agrees that no extension of time, change in, addition to, or other alteration or modification of the terms, conditions or obligations of the Contract or work to be performed thereunder, or any forbearance on the part of either the Obligees or the Principal to the other shall in any way release or affect the Surety's liability or obligation on this Bond, and the surety hereby waives notice of any such extension of time, change, addition, modification, alteration or forbearance.

Signed and sealed on the dates set forth below.

\_\_\_\_\_  
(witness) FOR: \_\_\_\_\_  
(Principal's Name)

(seal)

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
(witness) FOR: \_\_\_\_\_  
(Surety's Name)

(seal)

BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

BOND # \_\_\_\_\_

This Bond (\_\_\_ is) (\_\_\_ is not) a SBA Guaranteed Bond.



**EXHIBIT 9 - CITY OF COLORADO SPRINGS LABOR & MATERIAL PAYMENT BOND  
CITY OF COLORADO SPRINGS, COLORADO & PIKES PEAK RURAL TRANSPORTATION  
AUTHORITY LABOR AND MATERIAL PAYMENT BOND**

1. KNOW ALL MEN BY THESE PRESENTS, THAT:

\_\_\_\_\_  
(contractor name)

\_\_\_\_\_  
(address)

as Principal, hereinafter called Principal, and

\_\_\_\_\_  
(surety name)

\_\_\_\_\_  
(surety address)

a corporation organized and existing under the laws of the State of \_\_\_\_\_  
and authorized to do business within the STATE OF COLORADO, as Surety, hereinafter called Surety,  
are held firmly bound unto the CITY OF COLORADO SPRINGS, COLORADO as Obligees, and the PIKES  
PEAK RURAL TRANSPORTATION AUTHORITY as Obligees, hereinafter called the Obligees, for the use  
and benefit of claimants as hereinbelow defined, in the amount of:  
\_\_\_\_\_  
-- (\$\_\_\_\_\_.00), lawful  
money of the United States of America, together with interest as may be provided by law, for the payment  
whereof Principal and Surety bind themselves, their heirs, executors, successors and assigns, jointly and  
severally, firmly by these presents.

2. WHEREAS, Principal and the Obligees have entered into a contract dated the \_\_\_\_ day of  
\_\_\_\_\_, 2016 for the following (project):

**B16-T108 NS ACADEMY OVER COTTONWOOD CREEK CMGC**

**(Contract # \_\_\_\_\_)**, which contract is by reference made a part hereof, and is hereinafter  
referred to as the Contract.

3. NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Principal shall  
promptly make payments of all amounts lawfully due to all persons supplying or furnishing the Principal or  
the Principal's subcontractors with labor, materials, rental machinery, tools or equipment used or  
performed in the prosecution of the work provided for in the Contract; and if the Principal shall indemnify  
and save harmless the Obligees to the extent of any payments in connection with the carrying out of the  
Contract which the Obligees may be required to pay under the law, all in accord with Colorado State Law,  
Section 38-26-105 C.R.S., then this obligation shall be null and void; otherwise this obligation shall  
remain in full force and effect.

AND FURTHER, should the Principal or the Principal's subcontractors fail to duly pay for any  
labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by  
the Principal or the Principal's subcontractors in the performance of the work contracted to be done or  
fails to pay any person who supplies rental machinery, tools or equipment, all amounts due as the result  
of the use of such machinery, tools, or equipment, in the prosecution of the work under the Contract, the  
Surety shall pay the same in an amount not exceeding the sum specified in this Bond together with  
interest at the rate of eight percent per annum, in accord with Colorado State Law, Section 38-26-106  
C.R.S.

In accord with Colorado State Law, Section 38-26-105 C.R.S., actions against the Principal and  
Surety under this Bond shall be brought within six months after the final completion of the Contract as  
defined by the ordinances, rules and regulations of the City of Colorado Springs, Colorado, a home rule  
City, and not afterwards.

Page 2

4. The Surety for value received agrees that no extension of time, change in, addition to, or other alteration or modification of the terms, conditions or obligations of the Contract or work to be performed thereunder, or any forbearance on the part of either the Obligees or the Principal to the other shall in any way release or affect the Surety's liability or obligation on this Bond, and the surety hereby waives notice of any such extension of time, change, addition, modification, alteration or forbearance.

Signed and sealed on the dates set forth below.

_____	FOR: _____
(witness)	(Principal's Name)
(seal)	BY: _____
	ITS: _____
	this ____ day of _____, 20__

_____	FOR: _____
(witness)	(Surety's Name)
(seal)	BY: _____
	ITS: _____
	this ____ day of _____, 20__

BOND # \_\_\_\_\_

This Bond (\_\_\_ is) (\_\_\_ is not) a SBA Guaranteed Bond.

**EXHIBIT 10 - CITY OF COLORADO SPRINGS MAINTENANCE BOND  
CITY OF COLORADO SPRINGS, COLORADO & PIKES PEAK RURAL TRANSPORTATION  
AUTHORITY MAINTENANCE BOND**

1. KNOW ALL MEN BY THESE PRESENTS, THAT:

\_\_\_\_\_  
(contractor name)

\_\_\_\_\_  
(address)

as Principal, hereinafter called Principal, and

\_\_\_\_\_  
(surety name)

\_\_\_\_\_  
(surety address)

a corporation organized and existing under the laws of the State of \_\_\_\_\_  
and authorized to do business within the STATE OF COLORADO, as Surety, hereinafter called Surety,  
are held firmly bound unto the CITY OF COLORADO SPRINGS, COLORADO as Oblige, and the PIKES  
PEAK RURAL TRANSPORTATION AUTHORITY as Oblige, hereinafter called the Obliges, for the use  
and benefit of claimants as hereinbelow defined, in the amount of  
\_\_\_\_\_ **NO/100 DOLLARS---** (**\$**\_\_\_\_\_.**00**), lawful  
money of the United States of America, together with interest as may be provided by law, for the payment  
whereof Principal and Surety bind themselves, their heirs, executors, successors and assigns, jointly and  
severally, firmly by these presents.

2. WHEREAS, Principal and the Obliges have entered into a contract dated the \_\_\_\_\_ day of  
\_\_\_\_\_, **2016** for the following (project):

**R16-T108 NS ACADEMY OVER COTTONWOOD CREEK CMGC**

**(Contract # \_\_\_\_\_)** which contract is by reference made a part hereof, and is hereinafter  
referred to as the Contract.

3. NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the Principal  
shall promptly, properly and without cost to the Obliges perform all maintenance and other guarantee  
obligations under the terms of the Contract, including any modifications or extensions thereof granted by  
the Obliges, for a period of **two (2) years** from the date of final payment upon the Contract by the  
Obliges, and in the case of each correction or repair, during a period of one year after the date of said  
correction or repair or for the remaining period of years set forth herein, whichever is longer, then this  
obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

4. The Surety for value received agrees that no extension of time, change in, addition to, or other  
alteration or modification of the terms, conditions or obligations of the Contract or work to be performed  
thereunder, or any forbearance on the part of either the Obliges or the Principal to the other shall in any  
way release or affect the Surety's liability or obligation on this Bond, and the surety hereby waives notice  
of any such extension of time, change, addition, modification, alteration or forbearance.

Signed and sealed on the dates set forth below.

\_\_\_\_\_  
FOR:  
\_\_\_\_\_  
(witness) (Principal's Name)  
(seal) BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
FOR:  
\_\_\_\_\_  
(witness) (Surety's Name)  
(seal) BY: \_\_\_\_\_  
ITS: \_\_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

BOND # \_\_\_\_\_

This Bond (\_\_\_ is) (\_\_\_ is not) a SBA Guaranteed Bond.

## **EXHIBIT 11 – NOTIFICATION OF UTILITIES**

### General Information

It is the responsibility of the Contractor to notify all applicable utilities (including, but not limited to Colorado Springs Utilities) for utility locations at least two business days or twenty-four hours prior to commencing any work. Should any street be closed off for any amount of time, the Contractor must notify the Traffic Department. See the City of Colorado Springs Standard Specifications General Provisions for more information regarding utilities.

The City of Colorado Springs Standard Specifications and General Provisions indicated on the RFP for this project are included by reference. The above document may be reviewed or purchased at the City Administration Building, Engineering Division, at 30 South Nevada, Suite 403, Colorado Springs, Colorado, between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, except holidays.

### Telephone References

- |   |                |
|---|----------------|
| 1. Utility Notification Center of Colorado      | 1-800-922-1987 |
| 2. Colorado Springs Utilities Electric          | (719) 448-4811 |
| 3. Colorado Springs Utilities Water, Wastewater | (719) 448-4200 |
| 4. Traffic Department                           | (719) 385-5908 |
| 5. Colorado Springs Utilities Gas Emergencies   | (719) 520-0100 |
| 6. Cable Television                             | (719) 633-6616 |
| 7. Telephone                                    | 1-800-954-0211 |

### Standard Utility Color Code

- |                |   |        |
|----------------|---|--------|
| 1. Natural Gas | - | Yellow |
| 2. Electric    | - | Red    |
| 3. Water       | - | Blue   |
| 4. Wastewater  | - | Green  |

### Contractor Responsibilities

1. Contact Colorado Springs Utilities, and/or other applicable utilities company or provider, at least twenty four hours prior to starting the project so that our service inspector can make contact on the job site.
2. All replacement taps will have to be coordinated and notification must be given To Colorado Springs Utilities twenty four hours prior to scheduling.
3. Any water interruption to properties involved must be notified at least twenty-four hours prior to shut down and coordinated with a service inspector.
4. If in the event a property or business is involved that cannot be without water the Contractor will be responsible for keeping them in water while the shutdown is in effect.
5. If for any reason when water is restored after the shutdown that a property has no water and Colorado Springs Utilities is contacted to determine the problem, the Contractor will be responsible for digging, regardless of the time of day to

restore service. Contractor must provide Colorado Springs Utilities with a name and telephone number of an after-hours contact in case of emergency.

6. All services which would be replaced will have to meet our water specifications and be approved by the Water service inspector.
7. All materials pertaining to lowering or replacing water service lines, regardless of size will be the responsibility of the Contractor unless otherwise specified in Engineering Specifications and Plans.
8. If for any reason it would not be feasible to shut down and notify affected properties, it would be the responsibility of the Contractor to provide temporary water for the houses or businesses involved.

#### Pre-excavation Checklist

1. Indicate all gas and other utility lines a set of construction plans.
2. Notify City of Colorado Springs Underground Utility Line Locators at least two business days in advance at the division numbers listed above.
3. Utilities locations should be marked on the ground by City Locators.
4. All employees should be briefed on the marking and the standard utility color codes.
5. Employees should be trained on excavation and safety procedures for natural gas lines.
6. When excavation approaches gas lines, employees should expose lines by careful hand digging and probing.
7. Contact the City Forester for any tree protection requirements that may be included on contract specifications.

## **SECTION VI**

### **6.0 SCHEDULES**

Schedule B    General Construction Terms and Conditions

## **SCHEDULE B – GENERAL CONSTRUCTION TERMS AND CONDITIONS**

### **GENERAL CONSTRUCTION TERMS AND CONDITIONS**

#### **SECTION 100      DEFINITIONS AND TERMS**

Titles used in these specifications having a masculine gender, such as “workmen” and the pronouns “he” or “his”, are for the sake of brevity and are intended to refer to persons of any gender.

The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not have any bearing on their interpretation.

When the Contract indicates that something “shall” be done, the action is required and is not discretionary.

Calendar Day	Each and every day shown on the calendar, beginning and ending at midnight.
--------------	---

Change Order	A written order issued to the Contractor by the City covering contingencies, extra work, increases or decreases in Contract quantities, and additions or alterations to the plans or specifications, within the scope of the Contract, and establishing the basis of payment and time adjustments for the work affected by the changes. The Change Order is the only method authorized for changing the Contract.
--------------	---

City	The City of Colorado Springs, Colorado.
------	---

Contract Documents	Contract Documents include the Request for Proposal, Instructions to Offerors, Proposal, Amendments, the signed Contract, surety bonds, insurance documents, all terms, conditions, and provisions, and the Specifications, including all modifications thereof incorporated in any of the documents before execution of the agreement.
--------------------	---

Contract	The executed written agreement between the City and the Contractor setting forth the obligations of the parties for the performance of the work and the basis of payment. The Contract includes the Contract Documents, Notice to Proceed, and executed Change Orders, all of which constitute one instrument.
----------	--

Contractor	The person, persons, firm, or corporation to whom a Contract is awarded by the City and who is subject to
------------	---



	the terms of said Contract. Contractor shall include the agents, employees, workmen, subcontractors and any assignees of said Contract.
Engineer	An engineer of the City of Colorado Springs.
Notice	Any written notice served pursuant to the terms of the Contract. Notice shall be deemed to have been duly served if delivered in person or by registered mail to:  The Project Manager assigned to the Contract, City of Colorado Springs, City Engineering, 30 South Nevada Ave., Room 403, Colorado Springs, CO 80903.  Notice to the Contractor will be to the Authorized Representative of the Contractor at the site of the Project in person; or by registered mail to the Contractor's principal place of business as indicated in the Contractor's proposal certifications; or as to the Surety on the performance bond by registered mail to the Surety at the home office of such surety.
Plans	The drawings, or reproductions, provided by the City that show the location, character, dimensions, and details of the work to be done.
Project Manager	An individual representing the City responsible for managing and oversight of the Contract. .
Project	The entire improvement outlined in the Scope of Services which is to be constructed in whole or in part pursuant to the Contract.
Subcontractor	A person, firm, or corporation, other than the Contractor, supplying labor or materials, or both, or equipment furnished at the site of the project under an Agreement with the Contractor.
Surety	The person, firm, or corporation that has executed as surety the Contractor's Proposal, Performance, Payment and Maintenance Bonds.
Work	Work performed under the Contract.

Working Days

Days of the week, not including weekends and City holidays, unless otherwise stated.

## **SECTION 101      CONTRACT DOCUMENT INTERPRETATION**

### **101.00      INTENT OF CONTRACT DOCUMENTS**

The sections of the Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intent of the Contract Documents is to include the cost of all labor and materials, water, fuel, tools, plants, equipment, light, transportation, and all other expenses as may be necessary for the proper execution of the work. If the Contract Documents should be contradictory in any part, the order of precedence shall be as described in the Contract.

Any work shown on the Plans and not covered in the specifications, or included in the Specifications and not shown on the Plans, shall be executed by the Contractor as though shown both on the Plans and included in the Specifications.

If the Contractor, in the course of the work, finds any discrepancy between the Plans and the physical layout, or any errors or omissions in Plans or layout, he shall immediately so inform the Project Manager and the Project Manager will promptly verify them. Any work done after such discovery without written consent of the Project Manager authorizing the same shall be done at the Contractor's risk and sole expense.

Any incidental and/or appurtenant items not specifically called for in the Plans and Specifications, but which are necessary to complete the work in accordance with the requirements of good practice, as determined by the Project Manager, shall be included as a part of the Contractor's proposal price and furnished at no additional cost to the City.

In interpreting the Contract Documents, words describing materials or work which have a well-known technical or trade meaning, unless otherwise specifically defined in the Contract documents, shall be constructed in accordance with such well known meaning recognized by architects, engineers, and the trade.

### **101.01      SPECIAL PROVISIONS, SPECIAL SPECIFICATIONS**

Special Provisions or Special Specifications may be written to expand upon, modify or cancel these general provisions or the standard specifications.

### **101.02      STANDARD MANUFACTURER**

Wherever the terms "standard", "recognized" or "reputable" manufacturers are used, they shall be construed as meaning manufacturers who have been

engaged in the business of fabricating materials, equipment, or supplies of the nature called for by the Specifications for a reasonable period of time prior to the date set for submission of proposals, and who can demonstrate to the satisfaction of the City that said manufacturer has successfully installed equipment, materials, or supplies of the type proposed to be furnished in at least three instances and that the performance of such materials, equipment, or supplies for a period of over twelve months prior to the date fixed for submission of proposals shall, prima facie, be deemed to have been engaged in such business for a reasonable length of time.

### **101.03 "OR EQUAL" CLAUSE**

Whenever in any section of the Contract documents, any article, material, or equipment is defined by describing a proprietary product, or by using the name of manufacturer or vendor, the term "or equal" if not inserted, shall not be construed in such a manner as to exclude manufacturers' products of comparable quality, design, and efficiency, subject to review and approval by the Project Manager. The Project Manager may require that proposed equals be submitted for review and approval.

## **SECTION 102 COMPLIANCE WITH LAWS**

### **102.00 PUBLIC IMPROVEMENT ASSESSMENT**

If the cost of the improvement to be constructed under the Contract is to be assessed upon the owners of land benefited by such improvement, upon complaint of any such landowner that the improvement is not being constructed in accordance with the Contract, the City Council may consider the complaint and make such order in the premises as shall be just to ensure compliance with the Contract.

### **102.01 ALL LEGAL PROVISIONS INCLUDED**

It is the intention and agreement of the parties to this Contract that all legal provisions of law required to be inserted, shall be and are inserted. However, if by mistake or otherwise, some such provision is not inserted, or is not inserted in proper form, then upon application of either party, the Contract shall be amended so as to strictly comply with the law and without prejudice to the rights of either party.

### **102.02 LICENSES AND PERMITS**

It shall be the responsibility of the Contractor to obtain, at its expense, all necessary licenses and permits to do the Project, in accordance with applicable Federal, State and local laws, regulations and ordinances. Typical permits and fees include, but are not limited to, Excavation/Boring Permits, Concrete

Construction Permits, Fugitive Dust Permits, Regional Building Permits, Pavement Degradation fees, as well as Traffic Control and Barricade Plans to be approved by the City Traffic Division for all work within public rights-of-way and easements i.e. (curb and gutter, sidewalks, pedestrian ramps and cross pans).

## **SECTION 103      AWARD AND EXECUTION OF CONTRACT**

### **103.00      CONTRACT EXECUTED**

A single original Contract to include the Contractor's Performance, Labor and Material Payment and Maintenance Bonds may be executed and maintained in the official Contract file located in the City Contracts office. The original copy of the Contract maintained in the City Procurement Services file shall take precedence for purposes of interpretation or determining what the Contract says. After all required signatures are obtained; photocopy counterparts (copies) will be made and distributed to the following, as applicable:

- (a) Contractor
- (b) Project Manager
- (c) City Finance Department
- (d) Inspector

Each Bond shall have an original Power of Attorney attached. The Contractor shall provide compensation insurance and public liability and property damage insurance as outlined in the Contract. The costs of executing the bonds, Contract, and insurance, including all notaries' fees and expense, are to be paid by the Contractor to whom the Contract is awarded. Bonds shall be furnished on forms prepared by the City. Copies of the City's Bond Forms are included in the Exhibits Section of the Request for Proposal, if applicable.

### **103.01      VERBAL AGREEMENTS**

No verbal agreements or conversations with any agent or employee of the City either before or after execution of the Contract shall affect or modify any of the terms or obligations contained in any of the documents comprising the Contract.

### **103.02      CONTRACT SECURITY**

The Contractor shall furnish good and sufficient Performance, Labor and Material Payment and Maintenance Bonds on the form attached hereto in an amount not less than the full amount of the Contract price as security for the faithful performance of the Contract, for the payment of all persons performing labor and furnishing material in connection with the work, and for all guarantees of materials and workmanship required in the Contract. If at any time during the continuance of the Contract a surety on the Contractor's bond or bonds becomes irresponsible, as determined in the City's sole and absolute discretion, the City

shall have the right to require additional and sufficient sureties which the Contractor shall furnish within ten (10) days after written notice to do so. Any additional surety bonds shall cover the entire original Contract amount and any increases thereto.

### **103.03           INDEPENDENT CONTRACTOR**

In the performance of the Contractor's obligations under this Contract, it is understood, acknowledged and agreed between the parties that the Contractor is at all times acting and performing as an Independent Contractor, and the City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Contractor's obligations under this Contract, except as otherwise stated within the Contract terms. The City shall not provide any direction to the Contractor on the work necessary to complete the Project. Contractor understands that it is an independent contractor responsible for knowing how to perform all work or tasks necessary to complete Project. The Contractor understands and agrees that the Contractor and the Contractor's employees, agents, servants, or other personnel are not City employees. The Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of the Contractor's employees, agents, servants or other personnel performing services or work under this Contract, whether it be of a direct or indirect nature. Further in that regard, it is expressly understood and agreed that for such purposes neither the Contractor nor the Contractor's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

## **SECTION 104           THE CONTRACT: FOLLOWING EXECUTION**

### **104.00           MATERIALS**

Unless otherwise stipulated in the Contract, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light power, transportation, and other facilities necessary for the execution and completion of the work. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

### **104.01           SCHEDULE**

In the event of contradictions or inconsistencies, this clause shall take precedence over any language relevant to scheduling included anywhere else in this Contract.

The Contractor shall be responsible for planning, scheduling, and reporting the progress of the work to ensure timely completion of the work as called for in the

Contract Documents. The Contractor shall prepare a detailed Project schedule ("Project Schedule") that shall be used for coordination, for evaluation of progress, and for the evaluation of changes to the Contract. The Project Schedule shall include all activities, including those of subcontractors, Contractor's engineers and surveyors, and suppliers. Seasonal and weather constraints, utility coordination, railroad restrictions, right of way restrictions, traffic constraints, environmental constraints, other project interfaces, expected job learning curves and other constraints shall be considered when preparing the Project Schedule, including any phasing or sequencing of the work specified in the Contract Documents. Days scheduled as no work days shall be indicated. The Project Schedule shall consist of a Methods Statement as defined in subsection (a) below and a progress schedule consisting of (1) a Critical Path Method ("CPM") schedule as defined in subsection (b) below, or (2) a Bar Chart schedule as defined in subsection (c) below. A CPM Schedule shall be required if the Contract exceeds \$250,000 or if the construction period exceeds 150 Calendar Days, unless the Contract Documents stipulate otherwise. The CPM Schedule shall utilize Primavera's Suretrak Project Manager software (or other software designated by the Project Manager), or be capable of being read and manipulated by Suretrak Project Manager software (or other software designated by the Project Manager). The Project Schedule shall show all work completed within the Contract Period of Performance. The City reserves the right to approve or disapprove any proposed schedule. If disapproved, the Contractor must make requested changes and resubmit the schedule for approval within five working days of the disapproval by the City.

After award, the Contractor shall submit two copies of all required schedule information as described below. Schedules, schedule updates, diagrams and reports using CPM shall also be submitted electronically in the appropriate software format. All schedules, diagrams, and reports shall include a title, project number, date of preparation, and the name of the Contractor.

The Bar Chart or CPM 90-day schedule shall be submitted at least 14 Calendar Days prior to the start of the work. The Project Manager's review will not exceed five working days. Work shall not begin until the Project Schedule is accepted in writing, unless otherwise approved by the Project Manager.

(a) Methods Statement. A Methods Statement shall be prepared for the prominent features listed in the Contract Documents, and for any feature not listed in the Contract Documents that the Contractor considers a controlling factor for timely completion. The Methods Statement shall be a detailed narrative describing each feature and all work necessary to complete the feature. The Methods Statement shall be submitted with the Contractor's schedule. The following format is required:

1. Feature: Name of the feature;

2. Responsibility: Contractor, subcontractor, supplier, utility, etc. responsible for the feature;
3. Procedures: Procedures to be used to complete the work. The procedure to be used shall include general information regarding methods such as forming, excavation, pouring, heating and curing, backfill and embankment, trenching, protecting the work, etc. When separate or different procedures are to be employed by the Contractor due to seasonal or Project phasing requirements, such differing procedures shall be described in the procedure statement;
4. Production Rates: The planned quantity of work per day for each feature;
5. Labor Force: The labor force planned to do the work;
6. Equipment: The number, types, and capacities of equipment planned to do the work;
7. Work Times: The planned time for the work to include:
  - (a) number of work days per week
  - (b) number of shifts per day
  - (c) number of hours per shift

At the Project Manager's request, the Contractor shall update the Methods Statement, or any part thereof, and submit it with the Job Progress Narrative Report or Schedule Update, whichever is earlier.

- (b) Critical Path Method. CPM is a scheduling method which shows the interdependencies between work activities. The critical path is that path through the schedule which, if delayed, will cause a delay to project completion.

The progress schedule shall include as a minimum the prominent features of this Project as listed in the Contract Documents. The progress schedule shall include all activities for all work on the Project, including subcontracted work, delivery dates for critical material, submittal and review periods, milestone requirements and no work periods. Where the Project has specific phases, each phase shall be described separately for each applicable prominent feature.

Construction activity duration shall not exceed 15 Calendar Days unless approved by the Project Manager. Series of activities that have aggregate durations of five Calendar Days or less may be grouped in a single activity. For example, "form, reinforce, and pour pier" could be defined as a single activity rather than three. Single activities or a series of grouped

activities of at least one Calendar Day duration may also need to be included in the Project Schedule as determined by the Project Manager (e.g. same activities but noted separately by location).

**Time Scaled Logic Diagram:** This diagram shall show the logical progression of all activities required to complete the work defined in the Contract Documents. Activity information shall include activity ID, description, duration, early start and finish dates, late start and finish dates, total float, and responsibility.

1. **90-Day Schedule.** The 90-Day Schedule shall provide all necessary detail for procurement, construction and submittal activities required during the first 90 days of the Period of Performance. This submittal shall include a Time Scaled Logic Diagram.

2. **Project Schedule,** as described above.

The Project Schedule shall cover the entire Period of Performance.

3. **Schedule Updates.** The Contractor shall update the 90-Day Schedule or the Project Schedule to reflect actual construction progress of all work activities on the project. Updates shall show the previous 30 days progress and a 60-day projection for all work started, completed, or in progress during this three month window.

The Project Schedule shall be updated as of the cutoff date for the monthly progress pay estimate and submitted to the Project Manager before the payment of the progress pay estimate is approved.

Each of the diagrams, charts, and reports shall comply with the requirements for the Project Schedule above, except that they shall also include the actual completion dates and percentages of completion for the appropriate activities.

(c) **Bar Chart.** The Bar Chart shall be time scaled and shall show the following:

1. The prominent features, as listed in the Contract Documents.
2. Any feature not listed in the Contract Documents that the Contractor considers a controlling factor for timely completion.
3. The number of days required to complete each feature and its relationship in time to other features.



4. Sufficient space for each feature to permit two additional plots parallel to the original time span plot.
5. The anticipated delivery dates for equipment or materials in any feature that could affect timely completion of the project.
6. Critical completion dates for any activity within any feature that could affect timely completion of the project.
7. Connecting lines between features that show the intended progression of activities.

The Project Schedule shall cover the time from the Day of Notice to Proceed to the predicted completion date. The Project Schedule shall be updated as of the cutoff date for the monthly progress pay estimate and submitted to the Project Manager before the payment of the progress pay estimate is approved. The Contractor shall provide a copy of the original bar chart showing, for each feature, the days actually worked and the anticipated days required to complete.

- (d) Project Coordination. The Contractor shall coordinate and schedule its work to include anticipated utility work. Various City and private utility entities may be working to install and/or inspect their utilities within the Project area. Reasonable delays should be expected for utility lowering, relocations and placement. These delays shall not be reason for granting any monetary change or performance time alteration to the Contract. As a minimum, the Contractor's Project Schedule shall reflect coordination with the following:

1. City of Colorado Springs City Engineering Division
2. City of Colorado Springs Traffic Engineering Division
3. Colorado Springs Utilities (water, wastewater, gas, electric)
4. City of Colorado Springs Parks, Recreation and Cultural Services Department
5. Private Utility and Telecommunication Companies

- (e) Contractor Early Finish or Voluntary Acceleration. Early finish or voluntary acceleration of the schedule by the Contractor is acceptable provided:

1. At the time the Contractor submits the Project Schedule indicating an early finish or voluntary acceleration, the City is notified in writing of actions on the City's part necessary to accommodate the change(s).

2. The City agrees to such change(s) in writing.
3. The City is compensated by the Contractor for any inconvenience or expense associated with the change(s).
4. There is no increase to Contract cost.

A Job Progress Narrative Report shall be submitted bi-weekly as a minimum and with all Project Schedule updates. It shall detail the description of job progress, problem areas, current and anticipated delaying factors and their anticipated effects, impacts to job milestones or Project completion, any corrective action proposed or taken, and any minor revisions to the Project Schedule. If the Job Progress Narrative Report indicates problem areas and impacts to job milestones or Project completion, a revised Project Schedule shall also be submitted as specified below.

Revision of the Project Schedule may be required, as determined by the Project Manager, for: a major revision in the schedule logic or methods of construction; the addition, deletion, or revision of activities required by Contract modification; delays in milestones or the completion of the Project; or for prosecution of work that revises the phasing or staging which is represented on the plans or on the progress schedule. If in the opinion of the Project Manager, the Contractor falls behind the approved Project Schedule, the Contractor shall take steps necessary to improve Project progress, including those steps that may be required by the Project Manager, without additional costs to the City. In those circumstances where the Contractor is behind schedule, the City may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction planned and to submit such changes and revisions to the Project Schedule to the Project Manager for approval that will demonstrate how the approved rate of required progress will be regained. Failure of the Contractor to comply with the requirements of the Project Manager under this subsection shall be grounds for a determination by the City that the Contractor is not prosecuting the work with sufficient diligence to ensure timely completion of the Contract as required.

If it is determined that a revision to the Project Schedule is required, it shall be provided to the Project Manager for review within 15 Calendar Days of Contractor receiving written notification of the requirement from the Project Manager. The Project Manager's review of the revised schedule will not exceed 5 working days. Revisions required as a result of the Project Manager's review shall be submitted within 5 working days. When accepted by the Project Manager in writing, the revised schedule shall become the Project Schedule.

The Contractor shall participate in the Project Manager's review and evaluation of the submittals. Meetings will be held to review progress and planning when

requested by the Project Manager or Contractor. The Project Manager may request additional project scheduling information and documentation as deemed necessary, including reports and other information that may be reasonably generated using CPM software if required by the Contract.

The Contractor shall prosecute the work according to the Project Schedule. The Contractor shall be responsible for assuring that its subcontractors, suppliers, and engineers/surveyors, at any tier, also prosecute the work according to the Project Schedule. The City shall be entitled to rely on the Project Schedule for planning and coordination.

Acceptance of the Contractor's Project Schedule by the Project Manager is not to be construed as relieving the Contractor of obligation to complete the Contract work within the Contract time allowed for the portion of the work or the entire Contract, or granting, rejecting or in any other way acting on the Contractor's request for extension of Contract time, or claims for additional compensation.

All costs relating to preparation, submittal, and acceptance of the Project Schedule, reports and revisions, and all requirements of this subsection will not be paid for separately, but shall be included in the work.

Failure of the Contractor to comply with the requirements of this subsection may be grounds for a determination by the Project Manager that no further progress payments are to be made until the Contractor is in full compliance.

## **104.02 SCHEDULE OF VALUES**

Promptly following the execution of the Contract Documents for all Firm Fixed Price, lump sum Contracts, the Contractor shall prepare and transmit to the Project Manager two copies of an itemized Project cost breakdown showing the unit quantities of each major construction item and the corresponding unit prices. Such unit prices shall contain all costs including profit and overhead of each item complete in place. The total cost of all the items shall equal the Contract price for the Project. This breakdown, once approved by the Project Manager, will be used primarily in determining payment due the Contractor as provided herein. If, in the opinion of the Project Manager, any unit price submitted by the Contractor is unbalanced, a detailed breakdown of the items contained in the unit will be required.

For Contracts executed on a fixed unit price basis, payment shall be made based on the actual number of units installed or performed that are complete, however, payment shall not exceed the total Contract amount unless previously approved by Change Order.

#### **104.03        SURVEYS**

Unless otherwise specified in the Contract Documents, the City will furnish all site surveys, easements, pipeline licenses, etc., necessary to authorize construction of any permanent works required in the Contract, where such work is to be done on property other than the City's.

The Project limits of construction shall be within the public right-of-way and/or City easements. The Contractor shall not trespass on premises outside of the limits of construction for this Project, unless permission to do so is granted by the property owner in writing. Copies of any such grant shall be furnished to the City prior to the performance of any work outside the limits of construction.

#### **104.04        SUBCONTRACTS**

The Contractor will be permitted to subcontract a portion of the Contract; however, the Contractor shall perform work amounting to 30 percent or more of the original total cost of proposal items. Any items designated in the Contract as "specialty items" may be performed by subcontractor. The cost of "specialty items" so performed by subcontractor may be deducted from the original total cost of proposal items before computing the amount of work required to be performed by the Contractor.

The calculation of the percentage of subcontracted work shall be based on the Contract unit prices rather than subcontract unit prices. Proportional value for a subcontracted partial Contract item will be verified by the Project Manager. For the purpose of calculating the value of subcontracted work, the cost of procuring materials and manufactured products can be included in either the Contract or subcontract. However, when a firm both sells material to a Contractor and performs the work of incorporating the materials into the Project, these two phases shall be considered in combination and as constituting a single subcontract.

The Contractor shall as soon as practical after signing the Contract notify the Project Manager in writing, giving the names and qualifications, of all subcontractors proposed to do work on the Project within fifteen (15) business days of notice of award. The City shall have the right to reject subcontractors who are debarred or suspended from doing business with the federal government, State government, or the City of Colorado Springs. The Contractor shall notify the Project Manager of each subcontract he awards, giving:

- (a) Name, address, and telephone number of the subcontractor
- (b) Branch of work covered
- (c) Total price of subcontract

(d) Date of subcontract

It shall be the responsibility of the Contractor to file with the Project Manager copies of applicable permits and licenses required to do the subcontracted work. Subcontracts or transfer of Contract obligations shall not release the Contractor of liability under the Contract and bonds.

**104.05 OTHER CONTRACTS**

The City may undertake or award other Contracts for additional work at or near the site of the work under this Contract. The Contractor shall fully cooperate with the other Contractors and with City employees and shall carefully adapt their scheduling and performance of the work to accommodate the additional work, heeding any direction that may be directed by the Project Manager. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other contractor.

**SECTION 105 CONSTRUCTION SITE**

**105.00 LANDS TO BE USED FOR WORK**

The Contractor shall confine the work activities to the area shown in the construction drawings. The Project Manager will furnish the Contractor with copies of all executed right of way (ROW) and easement documents for the Project. The established work zone shall be marked and secured with orange safety fence. Any additional work area required within adjoining private properties must be acquired by the Contractor by written permission from the property owner. The Contractor shall restore any damage or disruption to other properties utilized in the performance of this Project to an equal or better than pre-construction condition at no cost to the City. The Contractor shall indemnify and hold the City harmless from any claims or losses from damage or disruption of private property.

Contractor shall provide, at its expense and without liability to the City, any additional land and access thereto that may be required for temporary construction facilities or for storage of materials. All such costs will be considered incidental to the work and will not result in additional cost to the City. Contractor personnel shall not unnecessarily enter upon private property without the express written consent of the landowner. The Contractor shall provide the Project Manager with a copy of the written permission. The Contractor shall indemnify and hold the City harmless from any claims or losses related to Contractor trespassing.

#### **105.01 STORAGE OF MATERIALS**

The Contractor shall confine its equipment, apparatus, the storage of materials and operations of Contractor's workmen to limits indicated by law, ordinances, permits, or directions of the City and shall not encumber the Project site with materials or equipment not necessary for the Project.

#### **105.02 LOADING OF STRUCTURES**

The Contractor shall not load or permit any part of a structure to be loaded with a weight that will endanger the structure's safety. The Contractor shall enforce the Project Manager's instructions regarding signs, advertisements, fires, and smoke.

#### **105.03 SANITARY PROVISIONS**

The Contractor shall provide and maintain on the construction site at all times suitable sanitary facilities for use of those employed on this Contract without committing any public nuisance. All toilet facilities shall be subject to the approval of the El Paso County Public Health Department. All portable toilet facilities for this Project shall be kept on City or State right-of-way as directed by the Project Manager.

#### **105.04 ACCIDENT PREVENTION**

The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. The Contractor shall submit to the City an acceptable, comprehensive Safety Plan for review prior to commencement of the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- a.) All persons on or about the Site or who may be affected by the Work;
- b.) All Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
- c.) Other property at the site or adjacent thereto, including buildings, real property, trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in the course of the Work.

Notwithstanding the foregoing, the City reserves the right to direct the Contractor to stop work and correct an unsafe condition at any time that any person present at the job site identifies any unsafe condition or action. For this purpose only, any person at the job site is authorized to act on behalf of the City, but such

intermittent delay shall not be grounds for an increase in the Contract price or schedule.

Precaution shall be exercised at all times for the protection of persons, including employees, and property. The safety provisions of all Federal, State and Municipal laws and any other codes relating to the public safety, shall be strictly observed, and the Contractor shall, at all times, whether or not so specifically directed by the Project Manager, take the necessary precautions to ensure the protection of the public.

Piling, sheeting and shoring shall be utilized where required to prevent any excessive widening or sloughing of a trench which may be detrimental to human safety, traffic flow, a pipe being placed, trees, or to any existing structure.

Excavated materials shall be placed a safe distance from the sides of the trench. Heavy equipment shall not be used or placed near the sides of a trench unless the trench is adequately braced.

The Contractor shall not load or permit any part of a structure to be loaded with a weight that will endanger the structure's safety.

The Contractor shall designate a qualified and experienced safety representative at the Work site(s) whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety plans and programs.

#### **105.05 PROTECTION OF THE PUBLIC WORKS AND PROPERTY**

The Contractor shall provide and maintain all necessary watchmen, barricades, lights, and warning signs and take all necessary precautions for the protection of the public. The Contractor shall continuously maintain adequate protection of all work from damage, and shall take all reasonable precautions to protect the City's property from injury or loss arising in connection with the Contract. The Contractor shall make good any damage, injury, or loss to their work and to the property of the City resulting from lack of reasonable protective precautions except such as may be due to errors in the Contract Documents, or caused by agents or employees of the City. The Contractor shall check all cautionary signs at least once a day during this Contract.

The Contractor shall continuously maintain adequate protection of all their work from damage and shall protect the City's and adjacent property from injury arising in connection with this Contract.

The Contractor will be responsible for any and all damage to property, public or private, that may be caused by its operations in the performance of this Contract, and the Contractor shall defend any suit that may be brought against itself or the City on account of damage inflicted by its operations, and shall pay any

judgments awarded to cover such damage and shall indemnify the City for any losses arising out of such damage or related claims.

The Contractor shall be responsible for the restoration of all existing surface or subsurface improvements damaged as a result of construction at no additional cost to the City.

## **105.06 PUBLIC ROADS**

The Contractor in executing the work on this Project shall not unnecessarily impede or interfere with traffic on public highways or streets. Detours, including surfacing, guard rails, temporary bridges and culverts, as may be shown on the drawings, or ordered by the Project Manager to accommodate the general public, residents adjacent to the improvements, and the United States mail shall be provided and maintained by the Contractor in a good workmanlike manner. Any call out of City Barricade Crews shall be charged to and paid for by the Contractor.

All work done within the public right-of-way and/or easements requires a Traffic Control Plan approved by the City Traffic Engineering Division.

The Contractor shall provide and maintain in place all barricades, warning signs, lights and other safety devices required to protect the work, divert traffic, and warn pedestrians of open excavation, unfilled trenches, and other areas or conditions which might be hazardous or dangerous. Detour routings must first be submitted to the City Traffic Engineer for review and approval and shall be signed for the entire route of the detour as required to return the traffic to their street or origination. Detours shall be maintained throughout the period of construction in such a manner as to provide the least amount of disruption to normal traffic flow.

All signing and barricading shall conform to the latest editions of the following:

- (a) Manual of Uniform Traffic Control Devices for Street and Highways (MUTCD)
- (b) City of Colorado Springs Traffic Signage and Markings Manual
- (c) City of Colorado Springs Construction Traffic Control Manual

The City Traffic Engineer may require flag persons or off-duty police officers for traffic direction.



#### **105.07 PROTECTION OF EXISTING CURBS, GUTTERS AND DRIVEWAYS**

The Contractor shall exercise care in protecting existing curbs, gutters and driveways. Curbs, gutters and driveways damaged by the Contractor's operations shall be removed and replaced by the Contractor at Contractor's expense.

#### **105.08 PROTECTING AND REMOVING PLANTINGS**

The Contractor shall protect all existing trees, shrubs and other plantings from above ground and root structure damage during the construction activities. Plantings which are considered to be slightly damaged shall be properly pruned and sealed according to accepted nursery practices. Contractor shall be liable for the costs of any unnecessary damage to plants or trees as determined by the Project Manager. Where plantings are in conflict with new work, as determined by the City Forester (plantings in the public right-of-way) or by the inspector or owner (plantings on private property), the Contractor shall at his expense remove the planting. The Contractor shall coordinate with the City Forester prior to working in the vicinity of plantings in the public right of way.

In all cases, the proper planting season shall be observed to assure proper establishment and growth of the plantings.

Tree branches shall be trimmed back to the trunk, all around, to a minimum height of 8' above the adjacent walkway. Work shall be done only by a licensed Tree Service as provided in City Code Chapter 2, Article 3, Part 3.

#### **105.09 PUBLIC CONVENIENCE AND SAFETY**

The Contractor shall make every effort to minimize the inconvenience to property owners and to the traveling and pedestrian public, and shall conduct the Work to minimize obstruction to traffic and inconvenience to property owners affected by the Work.

The Contractor shall notify and coordinate the closing and construction of the driveways, curb, gutter and sidewalks with the Project Manager and the adjoining property owners in advance of Work in writing. The Contractor shall provide 72 hours written notice in advance of any construction that may affect access, parking and/or existing structures, including fences adjacent to that property.

Suitable access and parking will be maintained at all times. Access may be limited to half the existing driveway width for limited periods during concrete driveway and street construction. An additional verbal notice shall be provided to each business or property owner 30 minutes prior to the actual access drive closure.

Relocating of fences and structures shall be coordinated with property owners and shall include miscellaneous items including, but not limited to, utility services, street signs and mailboxes, sod replacement, sprinkler system modifications, control boxes, railroad tie walls, etc. If no such items are specifically included in the Contract, these items will be considered incidental to the work and are to be included in the unit prices. The Contractor shall coordinate the salvaging of any materials suitable for re-use with the City Inspector and, if on private property, with the respective property owners.

Any restrictions on street parking or traffic movement shall be coordinated with the City Traffic Engineer.

#### **105.10 FAILURE TO MAINTAIN SAFE SITE**

If the City becomes aware of failure to comply with applicable safety regulations, the Project Manager may inform the Contractor who shall take immediate steps to remedy the noncompliance. The Project Manager shall give written notification to the Contractor directing it to correct the unsafe acts or conditions. If the Contractor fails to comply with such a notification, the Project Manager may issue a Stop Work order in accordance with this Contract, and work shall only be resumed after adequate corrective actions have been taken to correct the safety deficiencies the Contractor has been notified of. Stoppage of work because of noncompliance with prescribed accident precaution measures shall not be considered a changed condition or changes in work, nor reason for extension of completion time.

In case of injury to persons or property by reason of failure to erect and to maintain necessary barricades, safeguards, and signals, or by reason of any act or omission of the Contractor, or Contractor's subcontractors, agents, or employees, during the performance of this Contract, the City may withhold payments due the Contractor so long as shall be reasonably necessary to indemnify the City on account of any such injuries, but the City's payment or failure to pay any sum shall not be considered a waiver of its right to indemnity under the this Contract.

#### **105.11 EROSION AND DRAINAGE CONTROL**

Contractor shall provide for the drainage of stormwater and such water as may be applied or discharged on the site in performance of the work per the latest revision of the City of Colorado Springs Drainage Criteria Manual, Volume II. Drainage facilities shall be adequate to prevent damage to the work, the site, and adjacent property.

The Contractor shall prevent the pollution of drains and watercourses by sanitary waste, sediment, debris or other substances resulting from this work. Contractor shall be required to clean up and isolate such materials on a continuing basis to prevent risk of washing into such drainage ways.

Should the affected areas of the Project exceed one acre, a Stormwater Discharge Permit shall be required. Affected area includes excavations, material stockpiles and areas where equipment and vehicles disturb the ground. An exact definition of the affected area should be obtained from the Colorado Department of Public Health and Environment (CDPHE).

#### **105.12 POLLUTION**

The Contractor shall at all times ensure compliance with applicable Federal, State, and Municipal air, water, and noise pollution laws and ordinances. The Contractor shall at all times have the proper sprinkling equipment available and shall apply water in the amount determined by each site condition or as directed by the Project Manager. The Contractor shall obtain all necessary permits at Contractor's expense, which may include, but not be limited to, El Paso County or a State Air Emission permit, State of Colorado Construction Activity permit, State of Colorado Dewatering permit and Section 404 Corp of Engineers permit, unless otherwise specified in the RFP.

#### **105.13 TEMPORARY CONSTRUCTION**

All temporary facilities, including the Contractor's field office which it may maintain at the site, and additional offices erected by subcontractors, shall be neatly constructed and arranged on the site in an orderly manner. The Contractor shall prepare and submit to the Project Manager, for approval prior to starting work, a construction plan layout, showing arrangement of storage areas, temporary buildings, equipment, and work areas. The Contractor shall provide suitable weather-tight storage sheds of capacity required to contain all materials which might be damaged by storage in the open. The Contractor shall at all times keep copies of all Contract Documents readily accessible at its office at the site.

#### **105.14 TEMPORARY WATER SUPPLY**

The Contractor shall provide, at Contractor's own expense, temporary water connections and water supply necessary for the prosecution of the work and permit all contractors on the work to use this supply at a reasonable prorated charge, or by sub-metering. The Contractor shall pay for all water consumed in the work, and shall arrange with Colorado Springs Utilities for temporary connections and payment of service charges. Upon completion of the Contract work, all temporary waterlines shall be removed. The City will devise a method and plan to monitor and enforce the proper use of temporary water. The City will inspect for compliance.

#### **105.15 TEMPORARY ELECTRICITY**

The Contractor shall arrange with the Colorado Springs Utilities for temporary electricity necessary for the prosecution of the work. The Contractor shall pay for all electric current consumed, and shall permit all contractors on the work to use this supply at a reasonable prorated charge, or by sub-metering.

#### **105.16      TEMPORARY HEAT**

The Contractor shall provide adequate, temporary heat required during construction. Until the building or work area is enclosed, heavy tarpaulin shall be used to enclose any space requiring heating or protection from weather during construction operations. After the heating plant is in operating condition and the building is enclosed, heat may be provided from the permanent heating plant if such is approved by the Project Manager. In such case, the Contractor shall arrange to operate the plant, connect permanent or temporary radiation or unit heaters, and so maintain the plant during operation that it will be turned over to the City undamaged at the completion of the work. The Contractor shall provide all fuel required. In no case shall salamander heating be used in finished or plastered surfaces; instead, gas-steam radiators, unit heaters, or other suitable and approved means shall be used if the permanent heating plant is not available. This applies only to structures. It does not apply to road improvements or other outdoor improvements.

#### **105.17      TEMPORARY ENCLOSURES**

The Contractor shall provide and maintain temporary enclosures for the work as may be required to permit continuation of interior work during inclement weather, if wall and roof construction has progressed sufficiently to make interior work possible. This applies only to structures. It does not apply to road improvements or other outdoor improvements.

#### **105.18      CLEAN-UP**

The Contractor shall at all times keep the work area including storage and staging areas, free from accumulations of waste materials. The Contractor is also responsible for any costs associated with cleanup of debris from the work site or storage areas that may inadvertently be scattered outside the area by weather or vandalism. Upon completion of the work, the Contractor shall leave the work area in a clean neat and orderly condition satisfactory to the Project Manager.

## **SECTION 106      ROYALTIES, PATENT INFRINGEMENTS, SPECIAL LICENSES AND PERMITS**

### **106.00      ROYALTIES AND PATENTS**

The Contractor shall pay all applicable royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and save the City harmless from loss on account thereof except that the City may be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, unless the City has notified the Contractor prior to the signing of the Contract that the particular process, design, or product is patented or is believed to be patented.

## **SECTION 107      WORK PROVISIONS AND RULES**

### **107.00      COMMENCEMENT AND COMPLETION OF WORK**

- (a) Preconstruction Conference. After issuance of Notice to Proceed, or as otherwise established by the City, a preconstruction conference ("Preconstruction Conference") shall be held for review of the construction schedule, Contractor's written list of subcontractors and suppliers, written list of all required permits, project contracts, utility support plan, water control plan, Traffic Control Supervisor name and telephone number, gradations, test results, certifications, review procedures for handling shop drawings and other submittals, processing applications for payment, and other pertinent items.
- (b) At the Preconstruction Conference, the Contractor shall furnish the Project Manager a written list of all permits required for the proper completion of the Contract. The list shall clearly identify the type of permit or permits that must be obtained before work on any particular phase or phases of work can be started.
- (c) The Contractor shall commence work within ten (10) Calendar Days of the date specified on the Notice to Proceed and complete the Contract within the number of Calendar Days or by the date specified in the proposal form. Unless otherwise noted in the Contract, the number of days are Calendar Days.
- (d) The dates fixed for commencement and completion of the work may be extended by the Project Manager. All requests for extension of time by the Contractor shall be made in writing to the Project Manager and shall set forth the reasons for such requests. The Project Manager may fix the period of extension, if any. In addition, the Project Manager may grant a period of extension upon an execution of a Change Order. Any Project Manager's decision on extensions of time shall be binding upon the

parties hereto. Requests for extension of time received twenty (20) or more days after the occurrence of the delay will not be honored. No requests for extension of time shall be honored if submitted after the completion date.

- (e) If satisfactory execution and completion of the Contract shall require work or materials in greater amounts or quantities other than those set forth in the Contract, then the Contract time may be adjusted at the time of the execution of the Change Order. No allowance will be made for delays or suspension of the prosecution of the work due to the fault of the Contractor.

#### **107.01 FAILURE TO COMPLETE WORK ON TIME, LIQUIDATED DAMAGES**

If the Contractor fails to fully perform and complete the work in conformity to the provisions and conditions of the Contract within the specified time limit set forth in the Contract, including any extensions granted hereto, the Contractor may be subject to a stop work order, as provided in this Contract. In addition, the Contractor shall pay to the City for each Calendar Day of delay until such time the Contract is complete, liquidated damages at the applicable daily rate below. The amounts shown are considered to be liquidated damages to reimburse the City for the additional cost of construction engineering and Contract administration services and in no case are considered a penalty.

Original Contract Amount	Amount of Liquidated Damages Per Day
Less than \$50,000	\$300.00
\$50,000 to \$100,000	\$500.00
\$100,000 to \$500,000	\$700.00
\$500,000 to \$1,000,000	\$900.00
Over \$1,000,000	\$1500.00

#### **107.02 WORK IN BAD WEATHER**

No construction work shall be done during stormy, freezing, or inclement weather, except such as can be done satisfactorily, and in a manner to secure first class construction throughout, and then only subject to permission of the Project Manager.

The granting of a time extension for inclement weather does not imply or guarantee that additional compensation for incidental and appurtenant work caused by such weather will be approved or authorized by the Project Manager. Weather delays that can be reasonably anticipated shall not result in increased cost to the City. The Project Manager will be the sole judge as to the reasonableness of delays for inclement weather.

### **107.03        EXCUSABLE DELAYS**

The Contractor's right to proceed will not be terminated, and the Contractor will not be charged with damages, for delays in completing the work that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

- (a) Acts of God or of the public enemy,
- (b) Acts of the government in either its sovereign or Contractual capacity,
- (c) Acts of another contractor in the performance of a contract with the government,
- (d) Fires,
- (e) Floods,
- (f) Epidemics,
- (g) Quarantine restrictions,
- (h) Strikes of employees other than Contractor's employees,
- (i) Freight Embargos,
- (j) Unusually severe weather, or
- (k) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers.

### **107.04        COMPENSATION FOR COMPENSABLE DELAYS**

If the Project Manager determines that a delay is compensable in accordance with the Contract, monetary compensation will be determined in accordance with this subsection.

- (a) These categories represent the only costs that are recoverable by the Contractor. All other costs or categories of costs are not recoverable:
  - 1. Actual, reasonable wages and benefits, including FICA, paid for additional non-salaried labor;
  - 2. Reasonable and actual costs for additional bond, insurance and tax;

3. Increased, reasonable, and actual costs for materials;
  4. Reasonable equipment costs calculated in accordance with the current edition of the Rental Rate Blue Book of Rental Rates for Construction Equipment for Contractor-owned equipment and based on invoice costs for rented equipment;
  5. Reasonable and actual costs of extended job site overhead;
  6. Reasonable subcontractor's claims (the same level of detail as specified herein is required for all subcontractors' claims)
  7. An additional 10 percent will be added to the total of items (1), (2), (3), (4), (5), and (6) as compensation for items for which no specific allowance is provided, including profit, overhead, and general and administrative expenses.
- (b) In adjustment for costs as allowed above, the City will have no liability for the following items of damages or expense:
1. Profit in excess of that provided in (a) above;
  2. Loss of profit;
  3. Additional cost of labor inefficiencies in excess of that provided in (a) above;
  4. Home office or other overhead or general and administrative expenses in excess of that provided in (a) above;
  5. Consequential damages, including but not limited to loss of bonding capacity, loss of bidding opportunities, and insolvency;
  6. Indirect costs or expenses of any nature in excess of that provided in (a) above;
  7. Attorney's fees, claim preparation fees, and expert fees.

All costs claimed must be documented and accompanied by a written certification from the Contractor.

## **107.05      EMERGENCY WORK**

In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor is, without special instructions or authorization from the Project



Manager, hereby permitted to act at Contractor's discretion to prevent such threatening loss or injury. Contractor shall also act, without appeal, if so authorized or instructed by the Project Manager. Any reasonable compensation claimed by the Contractor on account of emergency work shall be determined by mutual agreement or in accordance with the Changes provision of this Contract.

#### **107.06 VALUE ENGINEERING CHANGE PROPOSALS BY THE CONTRACTOR**

The Contractor is encouraged to develop and offer proposals for improved construction techniques, alternative materials and other innovations. Proposals must provide a project comparable to the City's original design either at lower cost, with improved quality, or both. If a Value Engineering Change Proposal (VECP) Proposals shall be submitted only after contract award. If a VECP is rejected, the work shall be completed in accordance with the Contract at the Contract price. The Contractor shall have no claim against the City for compensable or noncompensable delay to the Contract based on the failure to respond to a VECP.

The Contractor may submit either a full VECP or a preliminary Conceptual VECP, followed by a full proposal. The City Engineer will provide timely review of all VECPs and advise the Contractor whether the VECP is complete or incomplete. When the VECP is complete, the Project Manager will advise the Contractor of either the approval of the VECP or the reasons for rejection of the VECP.

Cost savings generated to the Contract as a result of VECPs offered by the Contractor and accepted by the Project Manager shall be shared equally between the Contractor and the City.

If the Project Manager determines that the time for response indicated in the submittal under item (c)5 below is insufficient for review, the Contractor will be promptly notified. Based on the additional time needed by the Project Manager for review and the effect on the Contractor's schedule caused by the added time, the Project Manager will evaluate the need for a non-compensable time adjustment to the Contract.

(a) VECPs that will be considered are those that would produce savings to the City or provide improved Project quality without impairing essential functions and characteristics of the Project. Essential functions include but are not limited to: service life, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or to the environment during and after construction.

(b) *Submittal of Conceptual Proposal.* For VECPs that require a significant amount of design or other development resources, the Contractor may submit

an abbreviated conceptual proposal for preliminary evaluation. The Project Manager will evaluate the information provided and advise the Contractor if any conditions or parameters of the conceptual proposal are found to be grounds for rejection. Preliminary review of a conceptual proposal reduces the Contractor's risk of subsequent rejection but does not commit the City to approval of the full VECP. The following information shall be submitted for each conceptual proposal.

1. A statement that the proposal is submitted as a conceptual VECP.
2. A general description of the difference between the existing Contract and the proposed change, and the advantages and disadvantages of each, including effects on cost, service life, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or to the environment during and after construction.
3. A set of conceptual plans and a description of proposed changes to the Contract specifications.
4. An estimate of the anticipated cost savings or increase.
5. A statement specifying:
  - a. when a response to the conceptual proposal from the City is required to avoid delays to the existing contract prosecution,
  - b. the amount of time necessary to develop the full Proposal,
  - c. the date by which a Change Order must be executed  
to obtain maximum benefit from the VECP, and
  - d. the VECP's impact on time for completing the Contract.

(c) *Submittal of Full Value Engineering Change Proposal.* The following materials and information shall be submitted with each VECP.

1. A statement that the proposal is submitted as a VECP.
2. A description of the difference between the existing Contract and the proposed change, and the advantages and disadvantages of each, including effects on service life, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or to the environment during and after construction.

3. A complete set of plans and specifications showing the proposed revisions relative to the original Contract. This portion of the submittal shall include design notes and construction details. The proposed plans and specifications shall be signed and sealed by the Contractor's engineer.
4. A complete analysis indicating the final estimated costs and quantities to be replaced by the VECP compared to the new costs and quantities generated by the VECP. All costs and proposed unit prices shall be documented by the Contractor.
5. A statement specifying the date by which a Change Order must be executed to obtain the maximum cost reduction during the remainder of the Contract.
6. A statement detailing the effect the VECP will have on the time for completing the Contract.
7. A description of any previous use or testing of the proposed changes and the conditions and results. If the VECP was previously submitted on another City project, the VECP shall indicate the date, Contract number, and the action taken by the City.
8. An estimate of any effects the VECP will have on other costs to the City.
9. A statement of life cycle costs, when appropriate. Life cycle costs will not be considered as part of cost savings but shall be calculated for additional support of the VECP. A discount rate of four percent shall be used for life cycle calculations.
10. A statement specifying when a response from the City is required to avoid delays to the prosecution of the Contract.

(d) *Evaluation.* VECPs will be evaluated in accordance with the following:

1. The Project Manager will determine if a VECP qualifies for consideration and evaluation. The Project Manager may reject any VECP that requires excessive time or costs for review, evaluation, or investigations. The Project Manager may reject proposals that are not consistent with the City's design policies and criteria for the Project.
2. VECPs, whether or not approved by the City, apply only to this Contract and become the property of the City. VECPs shall contain no restrictions imposed by the Contractor on their use or disclosure. The City has the right to use, duplicate and disclose in whole or in part any data necessary for the utilization of the Proposal. The City retains the right to utilize any

accepted VECP or part thereof on other projects without obligation to the Contractor. This provision is subject to rights provided by law with respect to patented materials or processes.

3. If the City is able to demonstrate that it is already considering certain revisions to the Contract, prior to receipt of the VECP, or has approved certain changes in the Contract for general use that are subsequently proposed in a VECP, the Project Manager will reject the VECP and may proceed to implement these changes without obligation to the Contractor.
  4. The Contractor shall have no claim against the City for additional costs or delays resulting from the rejection or untimely acceptance of a VECP. These costs include but are not limited to: development costs, loss of anticipated profits, increased material or labor costs, or untimely response.
  5. VECP will be rejected if equivalent options are already provided in the Contract.
  6. VECP that only reduce or eliminate Contract pay items will be rejected.
  7. The savings generated by the VECP must be sufficient to warrant a review and processing, as determined by the Project Manager.
  8. A VECP changing the type or thickness of the pavement structure or changing the design of a bridge will be rejected.
  9. Additional information needed to evaluate VECPs shall be provided in a timely manner. Untimely submittal of additional information will result in rejection of the VECP. Where design changes are proposed, the additional information shall include results of field investigations and surveys, design and computations, and changed plan sheets required to develop the design changes.
- (e) *Payment.* If the VECP is accepted, the changes and payment will be authorized by a Change Order. Reimbursement will be made as follows:
1. The changes will be incorporated into the Contract by changes in quantities of unit items, new agreed unit price items, or both, as appropriate, under the Contract.
  2. The Price of the contract will be revised to reflect the changes in the VECP. The City will pay the Contractor 50 percent of the savings to the City upon completion of the Project. The savings to the City shall be the difference between the cost of the revised work and the cost of the related construction required by the original Contract computed at Contract prices.

3. Costs incurred by the Contractor for development, design, and implementation of the VECPs will not be reimbursed.
4. When work performed under an approved VECP is modified to fit field or other conditions, the maximum amount paid for the work will be limited to that which would have been paid if the work had been performed under the original Contract provisions. The rejection or limitation of reimbursement shall not constitute the basis of any claim against the City for delay or for other costs except as allowed under the original Contract.

#### **107.07      AUTHORITY OF THE PROJECT MANAGER**

The Project Manager will decide all questions regarding the quality and acceptability of materials furnished, work performed, and the rate of progress of the work, all interpretation of the plans and specifications, and the acceptable fulfillment of the Contract. The Project Manager will perform technical inspection of the work and shall have authority to reject all work and materials which do not conform to the Contract.

The Project Manager has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract or for the convenience of the City. The Project Manager may order the Contractor, by giving ten (10) days written notice, to suspend, delay, or interrupt all or any portion of the work required by the Contract for a period of up to (10) ten Calendar Days at no additional cost to the City. The Project Manager may immediately stop the work when it is determined that the public's safety and welfare is in jeopardy.

The Project Manager will, within a reasonable time after their presentation to the Project Manager, make decisions in writing on all claims submitted to the City by the Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents. The Project Manager's decisions shall be final.

#### **107.08      DUTIES OF THE INSPECTOR**

Inspectors employed by the City are authorized to inspect all work done and materials furnished. Any such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. An inspector is not authorized to alter or waive the provisions of the Contract. An inspector is not authorized to issue instructions contrary to the provisions of the Contract or to act as foreman for the Contractor.

## **107.09 CONSTRUCTION OBSERVATION AND INSPECTION**

The Project Manager shall at all times have access to the work, and the Contractor shall provide proper equipment, materials and labor as required for such access and inspection.

All equipment, material, and articles incorporated into the work covered by this Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this Contract. The Project Manager shall have the right to reject materials and workmanship, which are defective, or require their correction. Rejected workmanship shall be satisfactorily corrected and rejected materials shall be removed from the premises and replaced without charge to the City. If the Contractor does not correct such rejected work and remove rejected materials within a reasonable time fixed by written notice, the City may remove them and charge the expense to the Contractor.

Should it be considered necessary or advisable by the Project Manager at any time before final acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall on request promptly furnish necessary facilities, labor and materials. If such work is found to be defective in any material respect due to fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual, reasonable cost of labor and material necessarily involved in the examination and replacement, plus ten (10) percent, will be allowed the Contractor.

All materials to be incorporated in the work, all labor performed, all tools, appliances, and methods used shall be subject to the inspection and approval or rejection of the Project Manager.

If the Project Manager points out to the Contractor, Contractor's foreman, or agent any neglect or disregard of the Contract provisions, such neglect or disregard shall be remedied and further defective work be discontinued immediately.

The Contractor shall execute the work only in the presence of the Project Manager or authorized representative, unless provision has been made for the work to proceed without complete engineering supervision or inspection. The presence of the Project Manager or authorized representative shall in no way relieve the Contractor of any responsibility under this Contract.

The observation of the work by the Project Manager is intended to aid the Contractor in applying labor, materials, and workmanship in compliance with the Contract provisions. Such observation, however, shall not relieve the Contractor from any of Contractor's Contract obligations.

## **107.10 CONTRACTOR COOPERATION**

All work under this Contract shall be performed in a skillful and professional manner. The Project Manager shall have the authority to order the Contractor to remove from the work site any employee the Project Manager deems incompetent, careless, or otherwise objectionable to the general public or the City by notify the Contractor of such order in writing.

- (a) Workmen, Methods and Equipment: Permission from the Project Manager to use any particular methods, equipment or appliances shall not be so construed as to relieve the Contractor from furnishing other equipment or appliances or adopting other methods when those in use prove unsatisfactory to the Project Manager, or as to bind the Project Manager to accept work which does not comply with the Contract.

## **107.11 CONTRACTOR'S RESPONSIBILITY FOR WORK**

Until the work is accepted by the Project Manager as evidenced by the issuance of the Certificate of Completion, the Contractor shall have the charge and care thereof and shall take every necessary precaution against injury or damage to any part thereof by action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before its completion and acceptance and shall bear the expense thereof.

The Contractor shall be responsible for the preservation of all public and private property, trees, fences, monuments, and other property, along and adjacent to the improvements and shall use suitable precautions necessary to prevent damage to pipes, conduits, and other underground structures. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, such property will be restored by the Contractor and at Contractor's expense to a condition similar, or equal to that existing before such damage or injury to the satisfaction of the City's Project Manager.

It shall be the responsibility of the Contractor, when moving or operating equipment, to make all arrangements for temporary crossings of telephone, transmission, pipe lines, railroad tracks, and irrigation ditches. This work shall not be paid for as a separate item but shall be considered as incidental to the project.

## **107.12 PROTECTION OF UTILITIES**

The Contractor's attention is directed to the fact that utilities may encroach on the construction of this Project, and also to the importance of protecting all public/private utilities encountered on this project. These may include telecommunications, cablevision, traffic signal lines, power lines, water lines, sewer lines, gas lines, railroad tracks, and other overhead and underground utilities.

The City does not warrant any survey work or location of utilities or other underground apparatuses whether performed by the City, its agent, or an independent contractor. Contractor understands and agrees any survey or location work performed by the City, its agent, or other independent contractor is provided for guidance purposes only, so as to show the approximate location of underground utilities or apparatuses. Contractor understands the existence or exact location of underground utilities or apparatuses may not be known to the City or the design engineer of record. Contractor, therefore, agrees that it shall verify the existence and location of any underground utilities or apparatus along the route of work. Verification shall be done by potholing or using other methods which will detect the exact depth, dimensions, and location of any underground utilities or apparatus.

Contractor shall be liable for any damages, loss, or claims of whatsoever kind caused by its failure to pothole or use other methods of identifying the exact depth, dimensions, and location of any underground utilities or apparatus. Contractor agrees that any claim of any kind whatsoever, damages, loss, lawsuit, demand, or request for equitable adjustment ("Claims"), shall be waived and the City shall be forever released and discharged from such Claims if Contractor fails to comply with its obligations under this section. Contractor agrees that if it fails to maintain all records or other evidence establishing that it potholed or otherwise determined the exact location, depth, and dimensions of all underground utilities and apparatuses, then it shall not be permitted to make any Claim arising from or related to the location of underground utilities or apparatus.

The size and location of all existing utilities as known to the Project Manager have been noted on the plans for the information and guidance of the Contractor. The Contractor shall be responsible for the location and protection of all utilities located within his working area regardless of whether or not their existence or location is shown or noted on the drawings.

It is the Contractor's responsibility to complete required work and to schedule inspections during normal working hours. The Contractor is responsible for contacting each affected utility for their inspectors' working hours. The Contractor is responsible to request an inspection two (2) working days in advance of the inspection. In the case of an overtime inspection, the request



must be in writing. All overtime costs for inspection by Colorado Springs Utilities, or other utilities personnel, shall be the Contractor's expense. The City will not entertain any requests for time extensions for delays caused by the Contractor's failure to properly notify the affected utility of a required inspection or the Contractor's failure to complete the required work by the time of the scheduled inspection.

Any information concerning underground utilities shown on the drawings is intended to be merely an aid to the Contractor. The accuracy of information with respect to underground utilities is not guaranteed. The Contractor shall make their own investigation, including exploratory excavations, to determine the locations and type of existing mains or service laterals or appurtenances when their presence can be inferred from the presence of other visible facilities, such as building, manholes, inlets, meters and junction boxes, on or adjacent to the site of the work. If the Contractor discovers utility facilities not identified in the plans or specifications or in a position different from that shown in the plans and specifications, the Contractor shall immediately notify, verbally and in writing, the Project Manager and Owner of the utility facility.

Before any excavation is begun in the vicinity of water lines, railroad tracks, or structures, sewer lines, telecommunication conduits or cablevision line, each utility company, including Colorado Springs Utilities (if applicable), department, or company concerned must be notified in advance of such excavation, and such excavation shall not be made until an authorized representative of the utility concerned is at the site.

All utilities encountered must be kept in operation by the Contractor and must be protected and/or repaired at the Contractor's own expense, unless otherwise specified in the Contract documents. The Contractor shall be held liable for all damages to any and all public utilities encountered on the project, which damages are due to the Contractor's operations. Such damages shall include all physical damages to utilities and also all damages due to interruption of service of such utilities, when such damages and interruptions are caused by the Contractor's operations.

Where alterations or moving of utilities is not required to permit construction of the project, the Contractor shall take such measures as the Project Manager may direct to properly protect these utilities throughout his construction operations and shall cooperate at all times with the proper authorities and/or owners in maintaining service of railroads, conduits, pole lines, transmission lines, pipe lines, sewers, etc., affected by this project.

The costs of damages due to the Contractor's operation shall not be allowable under this Contract and shall result in no additional cost to the City. The cost of protecting utilities where alteration or relocation is not required to permit

construction of the project shall be considered as included in the original Contract price for the project and shall result in no additional cost to the City.

Should any pipe line, water lines, or gas mains, electrical conduits, sewer pipes, overhead wiring, telecommunication lines, power lines, or any other such utilities, not specifically mentioned and provided for elsewhere as a part of this Contract, have to be moved, repaired, reconditioned, or revised due to the construction, or moved temporarily to permit construction of the project the party or parties owning and operating such utilities shall perform the actual work of moving, repairing, reconditioning, or revising such utilities. Any such work would be added via change order, and the cost of this work will be borne by Colorado Springs Utilities, the utility companies involved, or other means arranged by the City.

(a) Existing Utilities

1. Existing Gas Lines: As of April 1, 1983, Federal law requires anyone who uncovers a gas line to report it to the gas company and allow it to be inspected by the gas company personnel before it is backfilled. Colorado Springs Utilities or other provider is to be notified prior to any excavation around gas lines. A Colorado Springs Utilities. or other applicable provider. inspector is to be notified and present on site prior to construction activities around gas lines.
2. Existing Sewer Mains and Services: All relocation, replacement protection shown on the plans or determined necessary by the inspector shall be performed according to the latest Colorado Springs Utilities Wastewater Standard Specifications. Minimum 48 hours' notice must be given to Colorado Springs Utilities prior to any related work.
3. The Contractor shall adjust sanitary sewer manhole rims to an elevation acceptable to Colorado Springs Utilities. The Contractor shall contact Colorado Springs Utilities twenty-four (24) hours prior to manhole rim adjustments.
4. Existing Water Mains and Services: All relocation, replacement or protection shown on the plans or determined necessary by the inspector shall be performed according to the latest Colorado Springs Utilities Water Standard Specifications and the Water Service Standard Specifications. Minimum 48-hour notice must be given to Colorado Springs Utilities prior to any related work. Colorado Springs Utilities reserves the right to schedule any operations at their discretion and to provide for any requirements determined necessary to perform the work. The Contractor shall coordinate with the Colorado Springs Utilities and receive their approval prior to performance of the work.

(b) Utility Support Systems:

1. If required by the Contract documents, or requested by the Project Manager, the Contractor shall submit shop drawings for the method of temporary support for all existing utilities during construction. The temporary support details for existing utilities shall be submitted for review and approval prior to performance of the work. Shop drawings must bear the seal of a Professional Project Manager registered in the State of Colorado, unless so waived by the City.
2. Regardless of City approved shop drawings, the Contractor shall be responsible for the satisfactory support of the utility system and any damages that may occur to the utility involved.

(c) Electric Utility Installation:

1. Any electric facilities unless otherwise noted are to be relocated or modified by Colorado Springs Utilities. The Contractor shall coordinate the work with Colorado Springs Utilities and Colorado Springs Utilities Contractor.

2. Light Pole Installation or Relocation:

- a. The Contractor is responsible for coordinating with Colorado Springs Utilities, removing existing light pole foundations, constructing new light pole foundations, installing new conduits, and installing lighting junction boxes. The Contractor is responsible for coordinating with Colorado Springs Utilities for the de-energizing and removal of existing light poles.
- b. Colorado Springs Utilities will remove the existing light standards, reset the light standards upon completion of the new foundations, conduit and junction boxes, pulling wire, and beginning operations of the lighting within the project limits. The Contractor is responsible for scheduling and coordination with Colorado Springs Utilities crews for reinstallation and re-energizing completed light poles.

(d) Gas Utilities: The Contractor is responsible for coordinating with Colorado Springs Utilities for the relocation of existing Gas lines. Colorado Springs Utilities will relocate the existing gas lines as necessary to install project improvements within the project limits. The Contractor is responsible for scheduling and coordination with Colorado Springs Utilities crews.

(e) Telecommunication Agencies: Any telephone facilities unless otherwise noted are to be relocated or modified by the respective private utility

company. The Contractor shall coordinate the work with the respective private utility company.

- (f) Cablevision: The television utilities are to be relocated by the cable provider. The Contractor shall coordinate the work with any affected cable provider.

## **107.13 FEDERAL FUNDS**

If this Contract is a federally assisted construction contract all applicable federal requirements, terms and conditions, provisions and forms shall apply. Additionally, during the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause
2. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Contract or understanding a notice advising the labor union or workers representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Secretary of Labor, State of Colorado Civil Rights Commission and any other governmental agency entity which may be assisting with the funding under this Contract for purposes of investigation to ascertain compliance with such rules, regulations and orders.
7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any such rules, regulations, or orders, this Contract may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further government Contracts or Federally assisted construction Contracts in accordance with the procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or otherwise provided by law.
8. The Contractor shall include the provisions of Paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the city, state, or any federal governmental entity may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor

may request the city, the state, or the United States to enter into such litigations to protect the interests of such governmental entity.

#### **107.14 SUPERINTENDENCE**

The Contractor shall give the work the constant attention necessary to facilitate the progress thereof and shall cooperate with the Project Manager and with other contractors or Colorado Springs Utilities employees in every way possible. The Contractor shall have at all times, on the work, as Contractor's agent, a competent superintendent capable of reading and thoroughly understanding the Plans and Specifications, and who shall have the necessary authority to receive and promptly execute the instructions and orders from the Project Manager or the Project Manager's authorized representative. Such superintendent shall be furnished irrespective of the amount of work sublet. The Contractor shall supply the Project Manager with a list of phone numbers at which the Contractor and its superintendent and foreman can be reached at any time. The assigned superintendent must adhere to the cooperation requirements specified in this Contract and is subject to removal if so ordered in writing by the Project Manager.

#### **107.15 PREPARATION**

All vegetation, stumps, and debris and other objectionable objects shall be removed from the area staked out by the Project Manager, and where necessary from the area immediately adjacent thereto. Such debris shall be hauled from the site of the construction and wasted as directed by the Project Manager.

#### **107.16 STAKING WORK**

The Project Manager may provide reference points (horizontal and vertical control) only, unless otherwise noted in the proposal and project specifications. The Contractor shall engage the services of a licensed surveyor or surveying firm (hereinafter referred to as the Surveyor) to be approved by the Project Manager. The Surveyor shall perform all detailed construction layout and staking including the staking of all storm sewer, street improvements, and utility relocations in accordance with the plans and specifications. The Contractor shall be responsible for the correctness and accuracy of the detailed layout of finished structures.

Any instrument man or survey assistant employed on the work by the Contractor or his subcontractors, who are judged by the Project Manager to be incompetent, shall be removed from the work and replaced by a competent individual.

#### **107.17        DEVIATION ALLOWED**

Finished surfaces in all cases shall conform to lines, grades, cross sections and dimensions shown on the approved drawings or described in the Specifications. Deviations from the approved drawings and working drawings as may be required by the expediciencies of construction, in all cases, must be determined by the Project Manager and authorized in writing. If the Project Manager deems it inexpedient to correct work injured or done in an unauthorized manner, an equitable deduction from the Contract price of the work done shall be made by the Project Manager subject to approval of the City Procurement Services Manager.

#### **107.18        RIGHT-OF-WAY**

The City's right-of-way will in general be adequate for construction purposes. Nothing marked on the drawings shall be interpreted as giving the Contractor exclusive occupancy of the territory provided by the City. The City and its employees for any purpose, and other contractors of the City, for any purpose required by their respective contracts, may enter upon or occupy any portion of the land furnished by the City. When the territory of one contract is a necessary or convenient means of access for the execution of another contract, such privileges of access or any other reasonable privilege shall be granted by the Contractor to the extent, amount, in the manner and at times necessary. No such joint occupancy or use of the territory shall be made as the basis of any claim for delay or damages.

#### **107.19        SHOP DRAWINGS AND SUBMITTALS**

The Contractor shall submit to the Project Manager all shop drawings and submittals required for the work, including those pertaining to structural and reinforcing steel within fifteen (15) Calendar Days from the date of the Notice of Award. The Contractor shall make any corrections in the drawings required by the Project Manager and resubmit the same without delay.

Three final copies of all shop drawings (if applicable), submittals (if applicable) and schedules shall be submitted to the Project Manager, who after checking will retain two copies and return one copy to the Contractor. The Project Manager's approval of shop drawings of equipment and material shall extend only to determining the conformity of such equipment and materials with the general features of the design drawings prepared by the Project Manager. It shall be the responsibility of the Contractor to determine the correctness of all dimensions and minor details of such equipment and materials so that when incorporated in the work, correct operations will result.

## **107.20 RECORD DRAWINGS**

The Contractor shall maintain an up-to-date set of Contract drawings and Contract records, legibly marked; depicting all constructed improvements at the site or as otherwise specified and shall submit a complete set labeled "Project Record" to the Project Manager upon completion of the Project.

### **(a) Drawings:**

1. Depths of various elements of foundation in relation to finish floor datum.
2. Horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements and Project survey control.
3. Location of internal utilities and appurtenances concealed in the construction, referenced to permanent surface improvements and project survey control.
4. Field changes of dimensions and detail.
5. Changes made by Change Order.
6. Details not on original Contract drawings.

### **(b) Specifications and Addenda:**

1. Manufacturer, trade name, catalog number, and supplier of each product and item of equipment actually installed.
2. Changes made by Change Order.

## **107.21 MATERIALS**

Unless otherwise stipulated in the Specifications, all workmanship, equipment, materials, and articles incorporated in the work covered by this Contract are to be new and of the best grade of their respective kinds for the purpose. The Contractor shall furnish to the Project Manager for the Project Manager's approval, the name of the manufacturer of machinery, mechanical and other equipment, which he contemplates installing, together with their performance capacities and other pertinent information including but not limited to instruction manuals pertaining to the use and operation of such machinery, mechanical and other equipment.



When required by the Specifications, or when called for by the Project Manager, the Contractor shall furnish for approval full information concerning the materials or articles which he contemplates incorporating in the work. Samples of materials shall be submitted for approval when so directed. Machinery, equipment, materials, and articles installed or used without such approval shall be at the risk of subsequent rejection.

#### **107.22 MATERIAL INSPECTION AT PLANT**

If the Project Manager inspects the materials at the source, the following conditions shall be met:

- (a) The Project Manager shall have the cooperation and assistance of the Contractor and the materials producer.
- (b) The Project Manager shall have full entry to all parts of the plant necessary for the manufacture or production of the materials being furnished.
- (c) Adequate safety measures shall be provided and maintained.

The City reserves the right to retest all materials which have been previously tested or inspected. The retesting may be prior to or after incorporation of the materials into the work. Those materials inspected and tested after delivery on the Project or after incorporation into the work that do not meet the requirements of the Contract will be rejected and replaced at no additional cost to the City.

#### **107.23 HANDLING MATERIALS**

All materials shall be handled so their quality and fitness for the work is preserved. Aggregates shall be transported to the work in vehicles constructed to prevent loss or segregation of materials.

#### **107.24 CITY FURNISHED MATERIALS**

Material furnished by the City will be made available to the Contractor at the points specified in the Contract.

The cost of handling and placing materials after they are made available to the Contractor shall be considered as included in the Contract price for the item, and shall result in no additional cost to the City.

The Contractor will be held responsible for all material received until it is incorporated into the work and accepted.

Demurrage charges resulting from the Contractor's failure to accept the material at the designated time and point of delivery will be deducted from monies due the Contractor.

## **107.25 BUY AMERICA REQUIREMENTS**

All manufacturing processes, including the application of a coating, for all steel and iron products permanently incorporated in the work shall have occurred in the United States of America. All manufacturing processes are defined as "processes required to change the raw ore or scrap metal into the finished, in-place steel or iron product". This requirement will not prevent a minimal use of foreign steel or iron provided the total project delivered cost of all such steel and iron which includes the cost of delivering the steel and iron to the Project, does not exceed one-tenth of one percent of the total Contract cost or \$2,500, whichever is greater.

With every steel or iron product that requires pre-inspection, pretesting, certified test results, or certificate of compliance, the Contractor shall provide a certification by each supplier, distributor, fabricator, and manufacturer that has handled the steel or iron product that every process, including the application of a coating, performed on the steel or iron product either has or has not been carried out in the United States of America. These certifications shall create a chain of custody trail that includes every supplier, distributor, fabricator, and manufacturer that handles the steel or iron product. The lack of these certifications will be justification for rejection of the steel or iron product. Upon completion of the Project, the Contractor shall certify in writing of compliance with this requirement and provide evidence of the Project delivered cost of all foreign steel or iron permanently incorporated into the Project.

## **107.26 TESTING OF MATERIALS**

Tests and Inspections. The City will employ and pay for the services of an approved testing laboratory to perform specified services for the field testing of:

- (a) Soil Compaction Control
- (b) Cast-in-Place Concrete
- (c) Asphalt Concrete Pavement

The Contractor shall perform, or arrange for the performance, and pay all costs in connection therewith, all other tests and inspections required by the Contract documents. The Contractor shall pay for all testing laboratory services in connection with tests verifying conformance of proposed materials and installation with project requirements including, but not limited to, mix designs, riprap, gradation tests for embedment, fill and backfill materials. The City shall

pay for testing laboratory services in connection with tests on materials after incorporation into the project, unless retesting of materials is necessary because of the failure of the materials to meet the Project requirements. The Contractor shall obtain the City's written acceptance of the testing laboratory before having services performed.

(a) Requirements for Independent Testing Consultants.

1. Consultants shall comply with "Recommended Requirements for Independent Laboratory Qualifications", latest edition, published by the American Council of Independent Laboratories, and basic requirements of ASTM E-329, "Standards of Recommended Practice for Inspection and Testing Agencies for Concrete, Steel, and Bituminous Materials as Used in Construction", latest edition.
2. The Contractor shall submit to the City for prior approval, the name and address of the proposed testing laboratory with description of personnel, facilities, equipment and other qualification data, including certificate of calibration of applicable testing equipment made by an accredited calibrated agency no more than twelve (12) months prior to submittal date.

(b) Test Reports

1. Testing agency shall be instructed to submit directly to the City three (3) copies of all reports of tests or inspections made, showing compliance, irregularities or deficiencies, identifying Project, date of test, location in Project, applicable specification section, applicable standard(s) for compliance, observations relating to compliance, name and signature of inspector.

(c) Contractor Responsibilities

1. Furnish access to the work, materials, equipment and labor required to accommodate inspections and tests when testing laboratory is retained by the City. In the event retesting of materials or recompaction is necessary because of the failure of the materials or compaction to meet the Project requirements, the cost of said retesting shall be borne by the Contractor. Cost of said retest will be deducted from the final payment amount due the Contractor, or invoiced directly to the Contractor at the City's discretion.

(d) Reliance on Technical Data

Without warranty or representation as to the accuracy or completeness of any information or data, Contractor may rely upon the general accuracy of

the “technical data” contained in the reports, specifications and drawings. The “technical data” is identified in the work technical specifications, drawings and reports that are signed and sealed by a registered Professional Engineer, Architect or Landscape Architect in the State of Colorado. Except for the reliance on the general accuracy of the “technical data,” Contractor may not rely upon or make any claim against the City with respect to:

1. the accuracy or completeness of such reports and drawings for Contractor’s purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in the reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any “technical data” or any such other data, interpretations, opinions, or information.

#### **107.27 UNANTICIPATED CIRCUMSTANCES**

Contractor understands that this is a firm fixed price contract and so long as there are no changes in the scope of work or unanticipated circumstances as provided in subsection A-C below, Contractor must deliver the project for the agreed price. The parties agree that not every circumstance can be anticipated or known at the time this Contract was executed. Compensation for unanticipated circumstances, limited to subsections A –C, shall, at the City’s sole discretion, be provided by the following method(s): (1) Unit prices previously approved; (2) allowing additional compensation on a time and materials method, not to exceed an agreed-to amount; (3) an agreed lump sum; and/or (4) the actual cost of:

- (a) labor (including foreman and additional supervision, if necessary);
- (b) materials necessary for incorporation into the Project;
- (c) rental cost of construction plant and equipment used for work;
- (d) Power and fuel required for operation of power equipment necessary to perform work;
- (e) Contractor shall provide to the City physical evidence of all costs, including, but limited to, payroll, invoices, vouchers, estimates, bills, accounting records, or other relevant records. Contractor agrees that its failure to provide evidence of a claimed cost shall be a waiver of such cost(s) and the City shall be released and forever discharged from any claim of any kind whatsoever, loss, damages, request for equitable adjustment, or demand related thereto. Contractor further agrees that, at the City’s discretion, a fixed fee, not to exceed 10% of the costs of work

shall be added to such costs as compensation for the cost of management, insurance, benefits, bond, profit, and any other expenses.

To the extent unanticipated circumstances arise, Contractor shall follow the procedures and processes set forth herein and, if applicable, the Dispute Resolution provisions of this Contract. Contractor agrees that its failure to follow the processes set forth herein and the Dispute Resolution process shall forever waive, release, and discharge the City from any claim of any kind whatsoever, damages, losses, lawsuits, or demands known or unknown. Additionally, the terms “detail” or “particularity” mean specificity, providing the exact basis and reason therefor with citations to the Contract or Contract Documents. Vague or ambiguous references such as “other matters” or “other costs” shall not be permitted and are not subject to any compensation method whatsoever.

A. Differing Site Conditions or Changed Conditions: A differing site condition or changed condition means subsurface, latent, or unknown physical site conditions that are materially different than that which is indicated in the contract and which is not ordinarily encountered and generally recognized in the work provided for in the Contract.

Contractor understands the City must be permitted the opportunity to timely investigate all differing site/changed condition matters; document conditions as they existed on the site at the time; take measurements, photographs, witness statements and the like; negotiate a compromise resolution with the Contractor and/or subcontractors; and avoid the cost, expense and delay of formal litigation.

Upon discovering a differing site condition, the Contractor shall not disturb the conditions and immediately contact the Project Manager. Within five days of discovering the condition, the Contractor shall provide written notice to the Project Manager of the condition. The written notice shall describe the condition with particularity; provide the precise material difference of the condition from the Contract, design plans, and/or other Contract Documents; describe, in detail, how the condition is not a condition that would be ordinarily encountered and generally recognized in the work provided for in the Contract; and provide a detailed explanation, including all accounting and other evidence supporting, Contractor’s losses, costs, delays, and changes in time required for performing the work. Contractor agrees that any claim, loss, damage, delay, or change in time that is not supported by evidence shall be disallowed. Contractor waives and forever releases and discharges the City from any claim of whatsoever kind, loss, damages, demand, and/or request for equitable adjustment whether known or unknown by disturbing the condition before notifying the Project Manager and by failing to provide timely detailed written notice as required herein. Any issue which is not provided for, in detail, in the written notice shall also be waived and the City shall be

forever released and discharged from any claim whatsoever, loss, damage, or request for equitable adjustment, or demand arising therefrom.

After Contractor fully complies with the provisions in this section and after receiving the written notice, the Project Manager shall promptly investigate the condition and determine whether such condition materially differs from that indicated in the Contract Documents and whether it is a condition that would not ordinarily be encountered and generally recognized in the work provided for in the Contract. If the Project Manager determines the condition is a "differing site condition," then a Change Order shall be issued describing the differing site condition and compensation method agreed to by the parties. By signing the Change Order, Contractor agrees the City shall be released and fully discharged from any claim whatsoever, loss, damage, request for equitable adjustment, or demand arising from the matters described in the Change Order. The parties shall also sign a document which describes in detail each condition and each claim, loss, damage, delay, or change in time related to that particular condition which was agreed to and fully resolved as well as any condition and each claim loss, damage, delay, or change in time related to that particular condition which is disputed.

If the Contractor disputes, disagrees with, or otherwise considers unfair any decision or ruling by the City, then Contractor shall, within 10 Calendar Days, provide the City with written notice of the dispute as set forth in the dispute section of this Contract and shall follow the dispute resolution process provided therein.

**B. Defective or Deficient Construction Plans or Documents:** A defective or deficient construction plan or document means a material error, mistake, oversight, or omission in the design plans or documents providing the specifications depicting the general and detail features of the work to be performed.

Upon discovering a defect or deficiency, the Contractor shall immediately contact the Project Manager. Within five days of initially advising the Project Manager of the defect or deficiency, the Contractor shall provide written notice to the Project Manager. The written notice shall describe the defect or deficiency with particularity explaining why it is a material defect or deficiency; provide precise detail explaining why the defect or deficiency is not something Contractor should know how to do or why the defect or deficiency is not a condition that would be ordinarily encountered and generally recognized in the work provided for in the Contract; and provide a detailed explanation, including all accounting and other evidence supporting, Contractor's losses, costs, delays, and changes in time required for performing the work. Contractor agrees that any claim, loss, damage, delay, or change in time that is not supported by evidence shall

be disallowed. Contractor agrees that it shall waive and forever release and discharge the City from any claim of whatsoever kind, loss, damages, demand, and/or request for equitable adjustment whether known or unknown by failing to immediately notifying the Project Manager and by failing to provide timely detailed written notice as required herein. Any issue which is not provided for in the written notice shall also be waived and the City shall be forever released and discharged from any claim whatsoever, loss, damage, or request for equitable adjustment, or demand arising therefrom.

After Contractor fully complies with the provisions in this section and after receiving the written notice, the Project Manager shall promptly investigate the condition and determine whether such matter is a “defective or deficient design plan or document” as defined herein. If the Project Manager determines the matter is a “defective or deficient design plan or document,” then a Change Order shall be issued describing the defective or deficient design plan or document, the correction and compensation method agreed to by the parties. By signing the Change Order, Contractor agrees the City shall be released and fully discharged from any claim whatsoever, loss, damage, request for equitable adjustment, or demand arising from the matters described in the change order. The parties shall also sign Form A of this Contract which describes in detail each condition and each claim, loss, damage, delay, or change in time related to that particular condition which was agreed to and fully resolved as well as any condition and each claim loss, damage, delay, or change in time related to that particular condition which is disputed.

If Contractor disputes, disagrees with, or otherwise considers unfair any decision or ruling by the City, then Contractor shall, within 10 Calendar Days, provide the City with written notice of the dispute as set forth in the Dispute Resolution section of this Contract and shall follow the dispute resolution process provided therein.

C. Changes in Work and Additional/Extra Work (fixed price contract): When additional information through excavation, testing, site investigation, differing site conditions, or otherwise is obtained the City shall have the right to alter, change the location, re-design, change the work, add to the work, accelerate work, or reduce work, change the method or manner of performance, change services, and/or change materials described in the Contract (collectively “Changed Work”).

If the City changes work, then a Change Order shall be issued by the Project Manager. Contractor shall not be required to perform any Changed Work without a Change Order issued by the Project Manager. Such Changed Work shall be performed under the terms set forth in the original Contract and compensated as agreed in this section of the Contract.

If Contractor disputes any Changed Work or compensation method for such Changed Work requested by the City or set forth in a Change Order, Contractor shall, without delay, perform such work. Within 10 Calendar Days of receiving the Change Order, Contractor shall provide the City with written notice of the dispute as set forth in the Dispute Resolution section of this Contract and shall follow the dispute resolution process provided therein. Contractor further agrees that any issue not provided for, in detail, in the written notice shall also be waived and the City shall be forever released and discharged from any claim whatsoever, loss, damage, or request for equitable adjustment, or demand arising therefrom. Any matter resolved through the Dispute Resolution process shall be set forth in Form A of this Contract which describes in detail each Changed Work, including the compensation method, which was agreed to and fully resolved. By signing Form A, Contractor agrees that the City shall be released and fully discharged from any claim whatsoever, loss, damage, request for equitable adjustment, or demand arising from the matters described in Form A.

If Contractor does not dispute any Changed Work or the compensation method for such work, then Contractor shall sign the Change Order and agrees that the City shall be released and fully discharged from any claim whatsoever, loss, damage, request for equitable adjustment, or demand arising from the matters described in the Change Order.

Contractor agrees that the Project Manager shall have the authority to make minor changes in the work which do not involve additional costs and are not inconsistent with the purpose and scope of the work.

If the City finds it necessary or advisable, the City may omit, increase, or decrease any items as it may deem necessary or desirable without changing the unit prices in the proposal, provided such increase or decrease does not exceed 15% of the total monetary value of the original Contract. If material or labor involved in such change is not included in the unit prices of the Contract, but forms an inseparable part of the work to be done under this Contract, and the delay involved in asking for the bids or proposals and the letting of a new contract therefore might result in damage, injury, or impairment of the plant, work system, or other property belonging to the City, the City may in its discretion declare an emergency and require Contractor to proceed with such alterations and additions. The Contract shall not be required to perform such work or furnish extra materials without a Change Order issued by the Project Manager.



## **107.28 DISPUTE RESOLUTION**

Mindful of the high cost of litigation, not only in dollars, but also in time and energy, the parties intend to and do hereby establish the following out-of-court alternate dispute resolution procedure to be followed in the event any dispute, claim of any kind, loss, damage, demand, request for equitable adjustment, or controversy should arise out of, or relating to this Contract or relating to any Change Order or other changes or addendums to this Contract. During the dispute resolution procedure provided in this section, Contract shall continue to perform the work as provided for in this Contract as modified by any Change Order or Contract amendment. Nothing in this section precludes the parties from pursuing any other remedy afforded by the laws of the State of Colorado once the remedies afforded under this Contract have been complied with and exhausted.

A. Disputes Arising from Unanticipated Circumstances: If Contractor disputes, disagrees with, or considers any decision, order, ruling, demand, request, directive, Change Order, or Contract amendment, related to the Unanticipated Circumstances provision of this Contract, and issued by the City, whether verbally or in writing, then Contractor shall:

1. Within 10 days of the City issuing any written or verbal decision, order, ruling, demand, request, directive, Change Order, or Contract amendment, Contractor shall provide written notice to the Project Manager identifying, with specific detail, each disputed matter. Any Unanticipated Circumstance dispute or matter of any kind or nature whatsoever, which Contractor does not identify in detail shall be waived and the City is released and fully discharged from any claim whatsoever, loss, damage, request for equitable adjustment, or demand arising from any matter not explicitly set forth in the written notice and described in detail;
2. Contractor shall provide to the City all evidence of any claim of whatsoever kind, loss, damages, delay cost, or other costs, including, but not limited to payroll reports, daily logs, invoices, accounting file, receipts, email, or other relevant record or document. Any item claimed by Contractor shall be supported by verifiable evidence described herein. If Contractor requires additional time to obtain or compile such evidence, then the Contractor shall have an additional 30 days, but must identify the exact document(s) or other evidence needed, where it is maintained, and explain why it is not available. The City shall not be responsible for any delay or other damage arising from Contractor's request for additional time to obtain documents. Any item unsupported by verifiable evidence shall be waived and Contractor agrees to release and fully discharge the City from any claim of whatsoever kind, loss, damage, request for equitable adjustment, or demand related to such unsupported item.

3. Upon receipt of Contractor's written notice, the Project Manager will investigate the disputed matter(s) and issue a written decision, ruling, order, and/or directive to Contractor. If Contractor does not dispute the Project Manager's decision, ruling, order, or directive, or a compromise has been reached, then Contractor shall sign Form A. If Contractor disputes or disagrees with the Project Manager's Ruling, then within 20 days of receiving the Project Manager's decision, ruling, order, and/or directive, Contractor must file with the City a written request for review to the City Engineer or City's Manager of the Procurement Services Division. The written request for review shall (a) state in detail the exact issue raised to the Project Manager and the issue(s) related to those matters raised to be reviewed by the City Engineer or Procurement Services Manager; (b) provide an analysis, detailing the basis, reason therefor and the how and why Contractor disagrees with the Project Manager's decision, ruling, order, or directive; and (c) attach all evidence supporting Contractor's dispute. If Contractor fails to provide a timely written request for review to the City Engineer or Procurement Services Manager, then Contractor agrees that it waives, releases, and forever discharges the City from any claim of whatsoever kind, loss, damage, request for equitable adjustment, or demand arising from or related to the Project Manager's decision, ruling, order, or directive.
  4. The City Engineer's or Procurement Services Manager's decision shall be final and conclusive for the City of Colorado Springs. If Contractor disputes, disagrees with, or considers such decision unfair, then Contractor shall be free to pursue any other remedy afforded by the laws of the State of Colorado. If Contractor does not dispute the City Engineer's or Procurement Services Manager's decision, ruling, order, or directive or a compromise is reached, then Contractor shall sign Form A.
  5. Contractor shall pay the City reasonable attorney's fees and costs associated with its failure to comply with any part of this alternate dispute process.
- B. All Other Claims: If a dispute, disagreement, or controversy of any kind, other than those covered in the Unanticipated Circumstances section of this Contract, arises from or is related to the Contract, shall be resolved under the Disputes section in the Contract.

#### **107.29 REMOVAL AND SUSPENSION FOR DEFECTIVE WORK**

All work or material which has been rejected shall be remedied or removed and replaced in an acceptable manner. Additional compensation will not be allowed for such removal and replacement. Any work done beyond the lines and grades shown on the drawings, except as herein provided, will be considered as unauthorized and will not be measured or paid for. Work so done may be

ordered removed at the Contractor's expense. Should the Contractor fail to comply promptly with any order of the Project Manager made under the provisions of this paragraph, the Project Manager shall have the authority to cause said work to be removed and to deduct the cost from any money due, or to become due, from the Contractor. At any time during the course of construction of this project if the provisions of the Plans, Specifications, or Contract provisions are being violated by the Contractor or his employees, the Project Manager shall have the right and authority to order all construction to cease or material to be removed, until arrangements satisfactory to the Project Manager are made by the Contractor for resumption of the work in compliance with the provisions of the Contract.

The Contractor shall promptly remove from the premises all materials and work rejected by the Project Manager as failing to meet Contract requirements, whether incorporated in the work or not, and the Contractor shall promptly replace and re-execute Contractor's own work in accordance with the Contract and without expense to the City and shall bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected work and materials within ten (10) days' time thereafter, the City may, upon ten (10) days written notice, sell such materials at auction or at private sale and retain the proceeds without compensation to the Contractor.

#### **107.30            CLEANING UP AND FINAL INSPECTION**

The Contractor shall at the completion of the work, remove all rubbish from and about the work and all tools, equipment, scaffolding, and surplus materials and shall leave the work clean and ready for use. If not completed by Contractor, the City may remove the rubbish and surplus materials and charge the cost to the Contractor.

All sewers, conduits, pipes, and appurtenances and all tanks, pump wells, chambers, buildings, and other structures shall be kept clean during construction and as the work or any part thereof approaches completion, the Contractor shall systematically and thoroughly clean and make any needed repairs to them. Contractor shall furnish at Contractor's own expense, suitable tools and labor for removing all water and cleaning out all dirt, mortar, and foreign substances. Any undue leakage of water into the structures such as to make the work, in the opinion of the Project Manager, fall short of first class work, shall be promptly corrected by the Contractor at Contractor's own expense.

Cleaning and repairs shall be arranged, so far as practicable, to be completed upon finishing the construction work. Notice to begin the final cleaning, and

repairing, if such is needed, will be given by the Project Manager, who at the same time will make his final inspection of the work. The Project Manager will not approve the final estimate of any portion of the work until after the final inspection is made and the work is found to be satisfactory.

#### **107.31 CUTTING AND PATCHING**

The Contractor shall do all cutting, fitting, or patching of work that may be required to make its several parts fit together or to receive the work of other contractors shown upon, or reasonably implied by the Plans and Specifications for the completed Project.

Cold or wet weather conditions that do not permit a permanent asphalt pavement replacement will require a minimum 2" bituminous pavement patch prior to opening the area to traffic as a temporary measure until the permanent asphalt pavement replacement can be installed. This item shall be incidental to any work requiring such removal of asphalt and will be considered to be included in the unit price of the related item of work.

Any cost caused by defective or ill-timed work shall be borne by the Contractor.

The Contractor shall not endanger any work by cutting, digging, or otherwise and shall not cut or alter the work of any other Contractor without the consent of the Project Manager.

#### **107.32 FINAL TESTS**

After completion of the work, the Contractor shall make any and all tests required by the Specifications or by municipal, state, or federal regulations, and where so provided in said regulations shall furnish the City with certificates of inspection by the applicable regulatory bodies. The Contractor shall also make all tests required by the National Board of Fire Underwriters for the purpose of determining insurance rates or other protection of the City or the public.

#### **107.33 CORRECTION OF WORK AFTER FINAL PAYMENT**

Neither the final payment nor any provision in the Contract Documents shall relieve the Contractor of the responsibility for negligence or faulty materials or workmanship within the extent and periods provided by law and by this Contract.

#### **107.34 NO WAIVER OF LEGAL RIGHTS**

Upon written notice that the Contractor considers all work complete, the Project Manager will make a pre-final inspection with the Contractor and will notify the Contractor in writing of incomplete or defective work revealed by the inspection. The Contractor shall promptly remedy such deficiencies.

After the Contractor has remedied all deficiencies to the satisfaction of the Project Manager and delivered all construction records including record drawings, maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection and other documents (all as required by the Contract Documents), the Contractor will be promptly issued a Certificate of Completion by the Project Manager stating that the work is acceptable.

Upon completion of the Contract, the City will make final inspection and notify the Contractor of acceptance. Final acceptance shall not preclude the City from correcting any measurement, estimate, or certificate made before or after completion of the Contract, nor from recovering from the Contractor or Surety, or both, overpayments sustained because the Contractor failed to fulfill the obligations under the Contract.

The Contractor shall be liable to the City for latent defects, fraud, or such mistakes as may amount to fraud, or as regards the City's rights under any warranty or guarantee.

For all non-federally funded projects, the following additional requirements shall apply:

- (a) All work shall be constructed in compliance with standard construction codes, and all materials and workmanship must be guaranteed for a period of two years from the date of final acceptance. If any defect in the work in violation of the foregoing warranty arises, Contractor shall, upon receipt of written notice of such defect, promptly furnish, at no cost to the City, design and engineering, labor, equipment, and materials necessary to correct such defect and cause the Work to comply fully with the foregoing warranty and Contract Documents. This obligation shall survive both final completion of and final payment for the Work. The City shall not be invoiced for any of costs of warranty work, and Contractor shall not be entitled to submit any claim for an increased fee arising therefrom. The Contractor guarantee period (two-year warranty period) will not begin until the Contract is 100 percent complete, as determined by the Project Manager. Acceptance of the 100 percent complete work shall be requested in writing by the Contractor. Any item requiring repair and/or replacement prior to expiration of the two-year warranty period shall be guaranteed for a period of one-year after the date of said correction or repair or for the remainder of the two-year warranty period, whichever is longer.
- (b) In placing orders for equipment, the Contractor shall purchase such equipment only under a written guarantee from the respective manufacturers that the equipment supplied will function satisfactorily as an integral part of the completed Project in accordance with the Plans and

Specifications. Furthermore, the Contractor shall require that the manufacturer agree in writing at the time an order of equipment is placed that manufacturer will be responsible for the proper functioning of the equipment in cooperation with the Contractor, and that whenever necessary during the installation period or tuning up period following construction period, the manufacturer will supply without additional cost to the City, such superintendence and mechanical labor and any adjustments and additional parts and labor needed to make the equipment function satisfactorily, even if the same was not shown on approved shop drawings.

## **107.35 ACCEPTANCE**

- (a) *Partial Acceptance.* If, during the performance of the project, the Contractor satisfactorily completes a unit or portion of the Project, such as a structure, an interchange, or a section of road or pavement that can be used advantageously for traffic, the Project Manager may make final inspection of that unit. If the Project Manager finds that the unit has been satisfactorily completed in compliance with the Contract, the Contractor may be relieved of further responsibility for that unit except as otherwise provided in these general provisions. Partial acceptance shall not void or alter any of the terms of the Contract.
- (b) *Final Acceptance.* Upon notice from the Contractor of presumptive completion of the entire Project, the Project Manager will make an inspection. If the work provided for by the Contract has been satisfactorily completed, that inspection shall constitute the final inspection and the Project Manager will notify the Contractor in writing of final acceptance indicating the date on which the Project was inspected and accepted.

If the inspection discloses any unsatisfactory work, the Project Manager will give the Contractor a written list of the work needing correction. Upon correction of the work, another inspection will be made. If the work has been satisfactorily completed, the Project Manager will notify the Contractor in writing of the date of final inspection and acceptance. Final acceptance under this subsection does not waive any legal rights contained in the No Waiver of Legal Rights section of this Contract.

## **SECTION 108 PAYMENTS AND ACCEPTANCE OF WORK**

### **108.00 PAYMENTS AND RETAINAGE**

Payments will be made, and required retainage withheld if applicable, in accordance with this section as the work progresses at the end of each month or as soon thereafter as practicable in compliance with C.R.S. Title 24, Article 91, on statements made and approved by the Project Manager. In preparing

statements, only completed work will be taken into consideration. No payment will be made for materials in storage and/or delivered to the site, unless otherwise approved by the City.

Payment for work performed by the Contractor under the Contract Documents will be made at the approved unit price or lump sum price for each of the several items as listed in the proposal and measured as hereinafter specified. Such payment shall compensate the Contractor for all costs in connection with furnishing all labor, equipment and material required and performing the operations necessary to complete the item in accordance with the Contract Documents. All incidental work essential to the completion of the Project in a workmanlike manner, and including cleanup and disposal of waste or surplus material, shall be accomplished by the Contractor without additional cost to the City. The cleanup and disposal of waste or surplus material shall be performed during construction or as soon after as is reasonably possible in order to better maintain the aesthetics and safety of the construction area. Payment will be made for the actual quantities constructed or installed, unless otherwise noted in these Contract Documents. However, any changes to plan quantity must be approved through proper Change Order procedures, said quantities being measured as specified in the Contract Documents.

- (1) If the Contract exceeds one hundred fifty thousand dollars (\$150,000.00), and is for the construction, alteration, or repair of any highway, public work, or public improvement, structure, and the Contractor has provided Performance and Payment Bonds: the City shall authorize partial progress payments of the amount due under this Contract monthly, or as soon thereafter as practicable, to the Contractor, if the Contractor is satisfactorily performing the Contract. If the City finds that satisfactory progress is being achieved during any period for which progress is to be made, the City may authorize payment to be made in full without withholding retainage. However, if satisfactory progress has not been made, the City may retain a maximum of ten percent (10%) of the amount of the requested payment until satisfactory progress is achieved. When the work is substantially complete, the City may retain from the remaining unpaid balance that amount the City Procurement Services Manager, at the advice of the Project Manager, considers adequate for protection of the City, suppliers, subcontractors, laborers, vendors, etc., provided that such retainage shall not exceed five percent (5%) of the amount due, and shall release to the Contractor all the remaining funds associated with completed and acceptable work.

If satisfactory progress has not been made the withheld percentage of the Contract price of any such work, improvement, or construction shall be retained on an invoice-to-invoice basis and shall not be cumulative. In other words, if the Contractor is not performing satisfactorily the City will hold ten percent (10%) of what is actually due to the Contractor. For

example, if the Contractor is behind schedule and has successfully completed fifty percent (50%) of the work, the City will only pay forty percent (40%) of the invoice, withholding ten percent (10%) of what is due until the Contractor gets back on schedule.

- (2) Whenever a Contractor receives payment pursuant to this section, the Contractor shall make payments to each of the subcontractors of any amount actually received which were included in the Contractor's request for payment to the City for such subcontracts. The Contractor shall make such payments within seven (7) Calendar Days of receipt of payments from the City in the same manner as the City is required to pay the Contractor under this section if the subcontractor is satisfactorily performing under the Contract with the Contractor. The subcontractor shall pay all suppliers, sub-subcontractors, laborers, and any other persons who provide goods, materials, labor, or equipment to the subcontractor any amounts actually received which were included in the subcontractor's request for payment to the Contractor for such persons, in the same manner set forth in this subsection (2) regarding payments by the Contractor to the subcontractor. If the subcontractor fails to make such payments in the required manner, the subcontractor shall pay those suppliers, sub-subcontractors, and laborers interest in the same manner set forth in this subsection (2) regarding payments by the Contractor to the subcontractor.

At the time a subcontractor submits a request for payment to the Contractor, the subcontractor shall also submit to the Contractor a list of the subcontractor's suppliers, sub-subcontractors and laborers. The Contractor shall be relieved of the requirements of this subsection (2) regarding payment in seven (7) days and interest payment until the subcontractor submits such list. If the Contractor fails to make timely payments to the subcontractor as required by this section, the Contractor shall pay the subcontractor interest as specified by Contract or at the rate of fifteen percent (15%) per annum, whichever is higher, on the amount of the payment which was not made in a timely manner. The interest shall accrue for the period from the required payment date to the date on which payment is made. Nothing in this subsection (2) shall be construed to affect the retention provisions of any Contract.

- (3) If the Contractor is not progressing in accordance with the Project Schedule or not performing quality work in accordance with the specifications, the City Procurement Services Manager, at the advice of the Project Manager may withholding retainage up to and including ten percent (10%) of the total contract amount.



## **108.01 PAYMENTS WITHHELD PRIOR TO FINAL ACCEPTANCE OF WORK**

The City may withhold or nullify the whole or part of any certificate of payment to such extent as may be necessary to protect it from loss caused by:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the Contractor.
- (c) Failure of the Contractor to make payments properly to subcontractors or for material or labor.
- (d) Damage to another contractor.

When the above grounds are removed, payment will be made for amounts withheld because of them.

## **108.02 ACCEPTANCE OF FINAL PAYMENT**

If the work is finally accepted by Project Manager under the terms and conditions of the Contract the entire balance found by the Project Manager to be due the Contractor, including the retained percentage, less any retention based on; (1) the Project Manager's estimate of the fair value of the claims against the Contractor; and (2) the cost of completing the incomplete or unsatisfactory items of work with specified amounts for each incomplete or defective item of work; and (3) retentions required by law, shall be due and payable to the Contractor. The date of completion is the date as specified in the Certificate of Completion issued by the Project Manager.

Upon completion of the work under the Contract and before the Contractor will receive or be paid for the Project Manager's final statement, the City Procurement Services Division shall post a notice on the website [www.coloradosprings.gov](http://www.coloradosprings.gov) that the City has accepted such work as completed according to the Plans and Specifications and rules set forth in the Contract; that the Contractor is entitled to final settlement; that after the date specified in the Notice, the City will pay the full balance due under the Contract; and that persons having claims for labor or material furnished the Contractor must present their claim to the City Procurement Services Division prior to the date specified for such payment. Nothing herein shall be construed as relieving the Contractor and the Sureties on the Contractor's bonds from any claim or claims for work or labor done or materials or supplies furnished in the execution of the Contract.

The making and acceptance of the final payment shall constitute a waiver of all claims by the Contractor against the City.

If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor, and the Project Manager so certifies, the City may, upon Certificate of Completion by the Project Manager, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, and acceptance of the payment shall constitute a waiver of all claims by the Contractor but acceptance of the work shall not constitute a waiver of City claims against the Contractor.

Advertising for Final Payment and processing of the Final Pay Request shall not take place until after the Contractor has submitted Sales and Use Tax Forms to the City and said forms have been reviewed and approved by the City Sales Tax Office.

## **SCHEDULE C – SPECIAL PROVISIONS TERMS AND CONDITIONS**

### **Revisions to SCHEDULE B – GENERAL CONSTRUCTION TERMS AND CONDITIONS**

#### **107.03 EXCUSABLE DELAYS:**

Section 107.03 will be altered to add the following at the end of the first paragraph:  
The determination of whether the delay is excusable will be reserved solely by the Owner and will be based upon their investigation and judgment only.

An act of God will be defined as a natural occurrence caused directly and exclusively by natural forces without any human intervention, which could not have been reasonably foreseen, nor could have been prevented. Earthquakes, landslides, tornados, hurricanes, lightning, floods, etc., are all examples of acts of God. Heavy rains, storm events, high winds, etc. will not qualify as an act of God.

#### **107.06 VALUE ENGINEERING CHANGE PROPOSALS BY THE CONTRACTOR:**

Section 107.06 does not apply to this contract, and will be deleted and removed from SCHEDULE B. VECP may be submitted by the contractor to the owner for review, but does not entitle the contractor a share of savings.

#### **107.25 BUY AMERICA REQUIREMENTS:**

Section 107.25 does not apply to this contract, and will be deleted and removed from SCHEDULE B.

#### **107.26 TESTING OF MATERIALS:**

Add to Section 107.26 the following:

To the first paragraph. The Owner reserves the right to halt construction to satisfy testing requirements, questions, results, or clarifications at their discretion.

(d) Any other item of construction the City determines to need initial or further testing.